PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. TAYLOR of Colorado: Joint resolution (H. J. Res. 406) stopping traffic and preventing interference with the suffrage procession; to the Committee on the District of Columbia.

By Mr. DAVIS of West Virginia: Resolution (H. Res. 871) authorizing the payment of a certain sum of money to Drusilla Garden, executrix of A. P. Garden; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the board of estimate and apportionment of the city of New York, favoring the passage of Senate bill 4978, providing for the extension to the time for the construction of the proposed bridge over the Hudson River from the State of New Jersey to the city of New York; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON: Petition of citizens of Rushford, Minn., favoring the passage of legislation compelling concerns selling goods direct to the consumer by mail to contribute their portion of the fund for the development of the local community, county, and State; to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of the Henry Shenk Co., the Manufacturers' Association of Erie, the Ball Engine Co., the Reid Manufacturing Co., the Dunn Brick Works, the Griffin Manufacturing Co., the Modern Tool Co., and the Griswold Manufacturing Co., all of Erie, Pa., protesting against the passage of the Hamill amendment to the sundry civil appropriation bill making an appropriation for the enforcement of the antitrust laws, and providing that it shall not be used against individual or combinations striking for higher wages, etc.; to the Committee on Appropriations.

Also, petition of the P. Minnig Co., Jacob Haller, and C. A. Curtze, Erie, Pa., favoring the passage of the Gould bill on weights and measures without the Senate amendments; to the Committee on Coinage, Weights, and Measures.

By Mr. BURKE of Wisconsin: Petition of Mrs. F. D. Bentley and 25 other members of the Golden Gossip Club, Portage, Wis., favoring the passage of Senate bill 6497, granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. BUTLER: Petition of the voters of Swarthmore, Pa., and the Trinity Presbyterian Church, Philadelphia, Pa., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. FORNES: Petition of the National Federation of German-American Catholics, New York, N. Y., favoring the passage of House bill 27281, providing for the passage of an eight-hour law for the women of the District of Columbia; to the Committee on Labor.

Also, petition of the owners of grain elevators in the port of Buffalo, N. Y., protesting against the passage of House bill 28180, carrying with it a provision for the survey of the Buffalo Harbor to secure a channel from the outer harbor to connect with the Buffalo River at or near Louisiana Street; to the Committee on Rivers and Harbors.

Also, petition of the governor of New York State and others, protesting against the passage of the bill providing for the regulation and control of the waters of the Niagara River; to the Committee on Foreign Affairs.

Also, petition of the National Liquor League of the United States of America, New York, N. Y., favoring the passage of legislation to eliminate the clause in the appropriation bill providing an appropriation of $5,000 to send delegates to the International Congress on Alcoholism; to the Committee on Appropriations.

By Mr. GARDNER of Massachusetts: Petition of citizens of Haverhill, Mass., protesting against the passage of the Root bill for repealing the free-tolls portion of the Panama Canal act; to the Committee on Interstate and Foreign Commerce.

Also, petition of sundry wage earners of Lawrence, Mass., favoring the passage of legislation for the continuing of tariff on American industries sufficient to protect the employment and scale of wages of the American working people against foreign competition; to the Committee on Ways and Means.

By Mr. FRANCIS: Petition of sundry negro citizens of the State of Ohio, protesting against the passage of the legislation making it unlawful for any society or fraternal order to hereafter adopt and send or receive through mail any word or title or the name of any animal or bird that is already being used as part of its title or name by any fraternal order, society, or association; to the Committee on the Post Office and Post Roads.

By Mr. GOULD: Petition of the Madison Sorosis Club, Madison, Me., protesting against the passage of any legislation tending to destroy the present national system of forest preservation; to the Committee on Agriculture.

By Mr. LA FOLLETTE: Petition of the staff and other employees of the Washington Sanitarium and the faculty and students of the Washington Foreign Missionary Society, Washington, D. C., all favoring the passage of the Jones-Works bill for the regulation of the liquor traffic in the District of Columbia; to the Committee on the District of Columbia.

By Mr. LEVY: Petition of owners of grain elevators, Buffalo, N. Y., protesting against the passage of the provision in House bill 28180 providing for the survey of the Buffalo Harbor to secure a channel from the outer harbor to connect with the Buffalo River; to the Committee on Rivers and Harbors.

Also, petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation to secure an immediate reform in the present banking system of the United States; to the Committee on Banking and Currency.

By Mr. MOTT: Petition of the commercial organizations of Knoxville, Tenn., protesting against the passage of legislation for the reduction of tariff on aluminum; to the Committee on Ways and Means.

By Mr. NEEDHAM: Petition of the board of directors of the California Live Stock Breeders' Association, San Francisco, Cal., favoring the passage of legislation providing that San Francisco be made a free port for the importation of live stock; to the Committee on Ways and Means.

By Mr. SABATH: Petition of the joint session of the board of directors of the Board of Commerce, Commercial Club, Manufacturers and Producers' Association, and Traffic Bureau, of Knoxville, Tenn., protesting against the passage of legislation for reducing the tariff on aluminum; to the Committee on Ways and Means.

Also, petition of the Associated Chambers of Commerce of the Pacific Coast, San Francisco, Cal., favoring the passage of bill making an appropriation for the purpose of experimenting with methods for avoiding unnecessary loss to the fruit raisers; to the Committee on Agriculture.

By Mr. STEPHENS of California: Petition of the California Associated Societies for the Conservation of Wild Life, Berkeley, Cal., and the Audubon Society of California, Los Angeles, Cal., favoring the passage of the McLean bill granting Federal aid for the protection of all migratory birds; to the Committee on Agriculture.

By Mr. TALCOTT of New York: Petition of the Deansboro (N. Y.) Graded School and citizens of Utica, N. Y., favoring the passage of the McLean bill for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. TILSON: Petition of members of Clinton (Conn.) Grange, No. 77, favoring the passage of the Page bill granting Federal aid for vocational education; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the joint session of the board of directors of the Board of Commerce, Commercial Club, Manufacturers and Producers' Association, and Traffic Bureau, of Knoxville, Tenn., protesting against the passage of legislation for the reduction of tariff on aluminum; to the Committee on Ways and Means.

SENATE.

FRIDAY, *February 28, 1913.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. GALLINGER took the chair as President pro tempore, under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. MCCUMBER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

PUBLIC BUILDINGS BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 28766) to increase the limit of cost of certain public buildings; to authorize the enlargement, extension, remodeling, or improvement of certain public buildings; to authorize the erection and completion of public buildings; to authorize the purchase of sites for public buildings, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SUTHERLAND. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. SUTHERLAND, Mr. WARREN, and Mr. CULBERSON conferees on the part of the Senate.

ORDER OF BUSINESS.

Mr. McCUMBER. I move that the Senate proceed to the consideration of the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Mr. BURTON. I gave notice that I would call up the so-called seaman's bill this morning.

Mr. McCUMBER. I gave notice that I would call up this bill immediately after the reading of the Journal.

Mr. PERCY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Mississippi suggests the absence of a quorum. The roll will be called.

The Secretary proceeded to call the roll, and the following Senators answered to their names:

Bourne	Cullom	Jones	Percy
Brandegee	Curtis	La Follette	Poindexter
Bristow	Dillingham	McCumber	Sheppard
Bryan	du Pont	Martin, Va.	Simmons
Burnham	Fall	Martine, N. J.	Smoot
Burton	Foster	Nelson	Sutherland
Clapp	Gallinger	Oliver	Townsend
Crawford	Gardner	Overman	Webb
Culberson	Johnston, Ala.	Page	Works

The PRESIDENT pro tempore. Thirty-six Senators have answered to their names—not a quorum. The roll of absentees will be called.

The Secretary called the names of the absent Senators, and Mr. KAVANAUGH, Mr. PITTMAN, and Mr. SMITH of South Carolina answered to their names.

Mr. O'GORMAN, Mr. GAMBLE, Mr. ASHURST, and Mr. BANKHEAD entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Forty-three Senators have answered to their names—not a quorum.

Mr. BRANDEGEE. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Mr. CUMMINS, Mr. GORE, Mr. POMERENE, Mr. McLEAN, Mr. JACKSON, and Mr. BRADLEY entered the Chamber and answered to their names.

The PRESIDENT pro tempore. On the call of the roll 49 Senators have answered to their names. A quorum is present. Without objection, further proceedings under the call will be dispensed with.

Mr. POINDEXTER. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. POINDEXTER. Under the rule certain routine morning business is to be transacted, and it can not be set aside unless by unanimous consent.

Mr. McCUMBER. I gave notice yesterday that I would call up the pension bill immediately after the reading of the Journal to-day.

Mr. POINDEXTER. I have two resolutions that can be disposed of in a minute.

Mr. McCUMBER. As soon as I get up the bill I will yield to the Senator.

Mr. POINDEXTER. That will dispense with morning business, and it will be impossible to get it up again. It will take but a few minutes to dispose of the resolutions.

The PRESIDENT pro tempore. The Chair sustains the point of order made by the Senator from Washington. The motion of the Senator from North Dakota can not be entertained until 11 o'clock. Petitions and memorials are in order.

LISTS OF CLAIMS (S. DOC. NO. 1114).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 27th instant, lists of claims allowed by the accounting officers of the Treasury amounting to $39,351.13, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

LIST OF JUDGMENTS (S. DOC. NO. 1120).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 27th instant, a list of judgments rendered by the Court of Claims amounting to $257,188.88, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

INDIAN DEPREDATION CLAIMS (S. DOC. NO. 1119).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 27th instant, a list of judgments rendered by the Court of Claims in favor of claimants and against the United States under the act to provide for the adjudication of claims arising from Indian depredations, amounting to $21,795, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

NAVAL CLAIMS (S. DOC. NO. 1117).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Navy, reporting, under the provisions of the naval act of June 24, 1910, that the Navy Department had considered, ascertained, adjusted, and determined the respective amounts due claimants therein specified on account of damages for which the vessels of the Navy were found to be responsible, aggregating $500, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

BUREAU OF MINES, PITTSBURGH, PA. (S. DOC. NO. 1118).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior, submitting an estimate of appropriation in the sum of $250,000 for the commencement of fireproof laboratories and other buildings suitable and necessary for investigations of the Bureau of Mines at Pittsburgh, Pa., which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

ESTIMATES OF APPROPRIATIONS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, requesting that provision be made in the general deficiency appropriation bill for certain estimates relating to the public building service heretofore submitted by the department, etc. (S. Doc. No. 1116), which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury transmitting items of appropriation for consideration in connection with the sundry civil appropriation bill, covering amounts thought to be required in connection with the public building service (S. Doc. No. 1115), which was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, recommending for inclusion in the deficiency appropriation bill an item for rent of temporary quarters for the accommodation of Government officials, Shreveport, La., $800 (S. Doc. No. 1121), which was referred to the Committee on Appropriations and ordered to be printed.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE AND LABOR (H. DOC. NO. 1440).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury relative to the construction of a separate fireproof building for each of the Departments of State, Justice, and Commerce and Labor upon land belonging to the United States in the District of Columbia, and authorizing the Secretary of the Treasury to enter into contracts for the erection and completion of these buildings, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5674) for the relief of Indians occupying railroad lands.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8274) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes

of the two Houses on the amendments of the House to the bill (S. 8314) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 72) requesting the President to return to the House in which it originated the bill (H. R. 18787) relating to the limitation of the hours of daily services of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, and that the action of the Speaker of the House of Representatives and the President of the Senate in signing the enrolled bill be rescinded, in which it requested the concurrence of the Senate.

SENATOR FROM SOUTH CAROLINA.

Mr. SMITH of South Carolina. I present the credentials of my colleague [Mr. TILLMAN], which I ask may be read and placed on the files of the Senate.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of BENJAMIN RYAN TILLMAN, chosen by the Legislature of the State of South Carolina a Senator from that State for the term beginning March 4, 1913, were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented a memorial of sundry citizens of Galesburg, Ill., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. OLIVER presented a petition of the Chamber of Commerce of Wilkes-Barre, Pa., praying for the passage of the so-called Page vocational education bill, which was ordered to lien on the table.

He also presented petitions of General George H. Thomas Post, No. 84, of Lancaster; of Winfield Scott Post, No. 114, of Philadelphia; of E. R. Brady Post, No. 24, of Brookville; and of George Smith Post,. No. 79, of Conshohocken; all of the Grand Army of the Republic, Department of Pennsylvania, in the State of Pennsylvania, praying for the enactment of legislation regulating the payment of pensions, which were referred to the Committee on Pensions.

Mr. CRAWFORD presented a memorial of sundry citizens of Day County, S. Dak., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. KAVANAUGH. I present a communication from the secretary of the Chamber of Commerce of Little Rock, Ark., transmitting resolutions unanimously adopted at a meeting of the Pulaski County Cooperative Marketing Bureau, which I ask may be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the communications were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE,
Little Rock, February 21, 1913.

Hon. W. M. KAVANAUGH,
Washington, D. C.

MY DEAR SIR: At the request of the Pulaski County Cooperative Marketing Bureau I am inclosing herewith resolutions adopted at the meeting held on February 1. The resolutions are self-explanatory and were unanimously adopted.

Yours, very truly,
CHAMBER OF COMMERCE,
C. C. KIRKPATRICK, *Secretary.*

A resolution passed by a conference of the business men and farmers of Pulaski County, February 1, 1913.

Be it resolved, That it is the wish of the 100 business men and farmers assembled in the audience room of the Chamber of Commerce in Little Rock, Ark., February 1, 1913, for the purpose of organizing a Pulaski County Cooperative Marketing Union, that our Representatives and Senators urge upon Congress the immediate need of legislation having in view the reform of our monetary system.

We are firmly convinced that our present banking system is inadequate to the needs of modern industry and business and that because of this inadequacy business is constantly unsettled and the possibilities of financial panics always in view.

We believe that there is no logical reason why our present Congress should not deal with this problem and give to our people monetary legislation, that would place the finances of our country beyond the constant menace of panics and give stability to our credit equal to the most enlightened and advanced countries of Europe.

To this end we, individually and collectively, urge our Senators and Representatives to immediate action.

GORDON C. PENN, *President.*
JNO. C. SMALL, *Secretary.*

Mr. KAVANAUGH. I present a communication from the secretary of the Traffic Bureau of Knoxville, Tenn., transmitting resolutions adopted by the Board of Commerce, the Commercial Club, Manufacturers' and Producers' Association, and the Traffic Bureau of that city, which I ask may be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the papers were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

TRAFFIC BUREAU OF KNOXVILLE, TENN.,
Knoxville, Tenn., February 24, 1913.

Hon. WILLIAM M. KAVANAUGH,
Washington, D. C.

DEAR SIR: I send you herewith some resolutions adopted by the Board of Commerce, the Commercial Club, the Manufacturers' and Producers' Association, and the Traffic Bureau, all commercial organizations of the city of Knoxville, and acting in joint session. These joint bodies appointed a committee to inquire into the relative cost of the production of aluminum in this country compared with the most favorable foreign countries, and they have set forth these facts and their reasons for believing that the present duty of 7 cents a pound on aluminum ought not to be disturbed or lessened at least.

The South has the only deposits of bauxite, from which aluminum is made, and vast deposits of coal, which is an essential agency in the manufacture of aluminum, and vast undeveloped water powers capable of generating electricity, which is also an essential agency in the manufacture of aluminum. While the South has all of these, it has no aluminum industry, and we beg of you in the exercise of your power as a lawmaker to give these questions your careful consideration, so that your final action in the premises may tend to build up and utilize our own resources rather than encourage the production of aluminum in foreign countries.

With very great respect, I am,
Yours, truly,
CHAS. KIMMICH,
Secretary Joint Session.

Resolution adopted at a special joint session of the boards of directors of the Board of Commerce, Commercial Club, Manufacturers' and Producers' Association, and Traffic Bureau of Knoxville, Tenn.

Whereas the aluminum industry of the United States, being fostered and stimulated by patents on the process of manufacture and by a duty of 7 cents per pound on foreign aluminum, has during the last 20 years grown from practically nothing to an output of 40,000,000 pounds per annum, while the price to the consumer has fallen from $4 per pound to 18 cents per pound; and

Whereas said patents have now expired, leaving nothing but the tariff of 7 cents per pound to secure to the American manufacturer the home market; and

Whereas it is far more expensive to produce aluminum in this country than in France and other foreign countries because of the fact that foreign bauxite is richer than that found in America, and because in foreign countries bauxite, coal deposits, and water power for generating electricity are found in close proximity to each other, while in this country they are found far apart, and because it is far more costly to develop the water powers in this than in foreign countries, and because the American manufacturer must pay much higher wages to labor than his foreign competitor; and

Whereas there are thousands of American citizens dependent upon the aluminum industries for support and millions of American capital invested in the business, both of which would suffer if the American market should be turned over to the foreign producer of aluminum; and

Whereas bauxite, from which aluminum is made, is found only in the Southern States, and there are also found in the South vast coal deposits and undeveloped water-power possibilities, both of which are essential in the production of aluminum; and

Whereas these advantages have attracted the manufacturers of aluminum in this country and abroad to such an extent that the Aluminum Co. of America and the Southern Aluminum Co. have each recently secured extensive water powers in the South, with a view to their immediate development for use in the manufacture of aluminum, which development would, in the opinion of this body, be retarded and delayed, if not entirely prevented, by any tariff legislation which would make it easier for foreign producers to sell their goods in this market and harder for the American manufacturer to obtain reasonable returns on the capital invested in the aluminum business; and

Whereas we believe that there is no demand coming from the consumers of aluminum goods for a lower duty, but that the cry for a lower tariff on aluminum comes solely from the manufacturers in their own interest and is not made in the interest of the consumers: Therefore be it

Resolved by the Board of Commerce, Commercial Club, Manufacturers' and Producers' Association, and Traffic Bureau of Knoxville, Tenn., That we deem it prejudicial to the best interest of the South to reduce the tariff on aluminum below 7 cents per pound, and we therefore urge our Senators and Representatives in Congress to use their influence to prevent such reduction.

J. W. BROWNLEE,
President Board of Commerce, Knoxville, Tenn.
G. E. BRADFORD,
President Commercial Club, Knoxville, Tenn.
W. A. MOBERLY,
President Manufacturers' and Producers' Association, Knoxville, Tenn.
JESSE THOMAS,
President Traffic Bureau, Knoxville, Tenn.
CHAS. KIMMICH,
Secretary Joint Meeting.

KNOXVILLE, TENN., *February 6, 1913.*

Mr. TOWNSEND presented memorials of sundry citizens of the State of Michigan, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of members of the Division of Home Economics of the Michigan Agricultural College, East Lansing, Mich., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. PAGE presented a memorial of sundry citizens of South Londonderry, Vt., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest

in the District of Columbia, which was ordered to lie on the table.

He also presented a memorial of members of the Epworth League of the Methodist Episcopal Church of Barton, Vt., remonstrating against the enactment of legislation providing for the restoration of the Army canteen, which was ordered to lie on the table.

Mr. WARREN presented a memorial of sundry citizens of Lander, Wyo., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. THOMAS presented a memorial of the congregation of the Seventh-day Adventist Church of Colorado Springs, Colo., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. McLEAN presented petitions of Local Grange No. 30, of Wapping; Local Grange No. 153, of Bridgewater; Local Grange No. 77, of Clinton; and of Local Grange No. 173, of Wolcott, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation embodying the essential provisions of the so-called agricultural extension and Page vocational education bill, which were ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Olathe, Kans., praying for the adoption of a 1-cent letter postage, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of sundry citizens of Burlington, Kans., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. BRANDEGEE presented a petition of Local Grange No. 23, Patrons of Husbandry, of Cheshire, Conn., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. FLETCHER presented a petition of members of the Woman's Club of Jacksonville, Fla., praying that an appropriation be made to enforce the suppression of the white-slave traffic, which was ordered to lie on the table.

NAVAL APPROPRIATION BILL.

Mr. PERKINS. From the Committee on Naval Affairs I report back favorably, with amendments, the bill (H. R. 28812) making appropriations for the naval service for the fiscal year ending June 30, 1914, and for other purposes, and I submit a report (No. 1334) thereon. I give notice that I will ask the Senate to take up the bill for consideration at 8 o'clock this evening.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

INTERNATIONAL CONGRESS ON ALCOHOLISM.

Mr. SWANSON, from the Committee on Education and Labor, to which was referred the amendment submitted by Mr. SHEPPARD on the 25th instant, proposing to appropriate $6,850 for expenses of delegates to the Fourteenth International Congress on Alcoholism at Milan, Italy, September 13, etc., intended to be proposed to the general deficiency appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

FREEDMAN'S SAVINGS & TRUST CO.

Mr. BORAH, from the Committee on Education and Labor, to which was referred the amendment submitted by Mr. CLAPP on December 7, 1912, proposing to pay the balance due depositors in the Freedman's Savings & Trust Co., etc., intended to be proposed to the general deficiency appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. THOMAS (by request):

A bill (S. 8582) pensioning the survivors of certain Indian wars from 1865 to January, 1891, inclusive, and for other purposes; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8583) granting an increase of pension to Mary E. Atwood (with accompanying papers); and

A bill (S. 8584) granting an increase of pension to Mary E. Eddy (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 8585) granting a pension to Alexander Weir; and

A bill (S. 8586) granting a pension to Samuel McMains (with accompanying papers); to the Committee on Pensions.

By Mr. SHEPPARD:

A bill (S. 8587) prohibiting changes in size and color of currency without consent of Congress; to the Committee on Finance.

By Mr. KERN:

A bill (S. 8588) to provide compensation for employees of the United States suffering injuries or occupational diseases in the course of their employment, and for other purposes; to the Committee on Education and Labor.

AMENDMENTS TO DEFICIENCY APPROPRIATION BILL.

Mr. JONES submitted an amendment proposing to appropriate $1,521.88 for the payment of a certain judgment rendered in cause No. 58 in the United States District Court for the Western District of Washington, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment providing that the funds derived from the act approved July 2, 1864, and the appropriation for surveys within land grants (reimbursable), act of March 2, 1895, is made available for office work upon surveys under these acts in the offices of the surveyors general and in the General Land Office, intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. RICHARDSON submitted an amendment intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BRIGGS submitted an amendment proposing to appropriate $1,200 to pay W. M. Palmer for detail service in charge of enrolled bills, United States Senate, intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $500 to pay William E. Burns for extra services rendered in transferring, rearranging, re-marking, cleaning, and refiling the bills, reports, documents, and laws in the Senate document room, intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMITH of South Carolina submitted an amendment proposing to appropriate $1,000 for additional labor and emergency employments in the office of the Secretary of Agriculture, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. ROOT submitted an amendment proposing to appropriate $3,000 to pay Garfield Charles for compiling a supplement to the compilation entitled "Treaties, Conventions, International Acts, and Protocols Between the United States and Other Powers, 1776 to 1909," intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations.

Mr. SMITH of Michigan submitted an amendment proposing to appropriate $1,000 for translating documents, interpreting testimony of witnesses, indexing and preparing for publication hearings relating to revolutions in Mexico and Cuba, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. FLETCHER submitted an amendment proposing to appropriate $15,000 for protecting the shore of Anastasia Island, Fla., by groins, intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $25,000 for the preparation of detail plans and specifications for an armory in the District of Columbia and for each and every purpose connected with the preliminary work upon said building, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment providing that hereafter when officers of the Public Health Service on the active list are not provided quarters they shall receive in lieu thereof commutation therefor at the rate of $12 per room per month, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. MYERS submitted an amendment increasing the expenditure authorized to be made from the reclamation fund, by public resolution No. 56, approved August 24, 1912, relative to the payment of certain claims on account of labor, supplies, materials, and cash furnished in the construction of the Corbett Tunnel to $12,750, etc., intended to be proposed by him to the

general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

OIL AND GAS LANDS OF OSAGE NATION.

Mr. OWEN submitted the following resolution (S. Res. 485), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to transmit to the Senate the correspondence and protests relating to the proposed leasing of oil and gas lands of the Osage Nation, together with the proposed rules and regulations, before concluding the disposition of such lands by lease.

SENATE PRECEDENTS.

Mr. LODGE submitted the following resolution (S. Res. 486), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Chief Clerk be authorized to bring down to the close of the Sixty-second Congress the digest of the precedents and decisions on points of order in the parliamentary practice in the Senate, with a full index, and that 1,000 copies be printed and bound for the use of the Senate.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. OVERMAN. I move to reconsider the votes by which the sundry civil appropriation bill was ordered to a third reading and passed, for the purpose of adding an amendment, by instruction of the Committee on Appropriations.

I wish to state that I protested against an item in the sundry civil bill because I thought it was too much. I said I would undertake to contract to do the work for $25,000, when $45,000 was asked. I saw the Secretary of the Treasury, and he still insists that $45,000 will be necessary; but I have an amendment to offer by direction of the committee, striking out $45,000 and inserting $25,000. I am instructed by the committee to state that they will accept this amendment. I therefore move to reconsider the votes by which the bill was ordered to a third reading and passed. I could not be here last night.

Mr. SMOOT. I desire to state to the Senator that if the bill is reconsidered it will be only reconsidered for this one item. The item was passed upon by the committee, as the Senator has stated.

The PRESIDENT pro tempore. The Senator from North Carolina moves to reconsider the votes whereby the bill (H. R. 28775) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, was ordered to a third reading and passed.

The motion to reconsider was agreed to.

Mr. OVERMAN. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The Senator from North Carolina offers an amendment, which will be read.

The SECRETARY. On page 6, in lieu of the matter contained in lines 16 and 17 and line 18, down to and including "$6,000," insert the following:

Section 7 of the omnibus public building act approved June 25, 1910, authorizing the enlargement, extension, remodeling, or improvement of the United States post office and courthouse at Charlotte, N. C., at a limit of cost of not to exceed $250,000, be, and the same is hereby, amended so as to authorize in lieu thereof the demolition of the present building and the construction of a new building for the use and accommodation of the post office and United States courts at Charlotte, N. C., including fireproof vaults and heating and ventilating apparatus and approaches, complete, within said limit of cost hereby fixed of not to exceed $250,000; the materials of which the old building is composed to be utilized, so far as they may be found suitable, in the construction of the new building. And the Secretary of the Treasury is hereby authorized to enter into contracts for the construction of said building within the said limit of cost hereinbefore fixed.

That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause the present assay office building in Charlotte, N. C., to be so altered, rearranged, improved, and equipped, including fireproof vaults and heating and ventilating apparatus, as to afford temporary quarters, pending the construction of said new post office and court house, for such of the Federal officials at Charlotte as can be accommodated therein, and so as to furnish suitable permanent quarters for such Federal officials as can not be properly accommodated, upon its completion, in said new post office and courthouse, at a cost not exceeding $25,000.

And the Secretary of the Treasury be, and he is hereby, authorized to rent temporary quarters for such Federal officials as can not be so accommodated in the permanently altered and rearranged assay office, and to pay the rent for such temporary quarters and all moving expenses out of the limit of cost hereinbefore fixed for permanently altering and rearranging said assay office building, said rent to be for such period as may be permitted by the balance remaining of the last-mentioned limit of cost after such permanent alteration and rearrangement of said assay office has been provided for, not exceeding an aggregate rental of $6,500 for the first year; estimates for any further rents to be submitted annually.

That all appropriations heretofore made for the enlargement, extension, remodeling, or improvement of the post office and courthouse at Charlotte, N. C., or which may be contained in appropriation acts now pending for said purposes, be, and the same are hereby, reappropriated and made available for the construction of said new post office and courthouse and for said permanent alterations, remodeling, etc., of the assay office and for said rental of temporary quarters and moving expenses of the Federal officials to be quartered therein.

The PRESIDENT pro tempore. The question is on the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

PROTECTION OF AMERICANS IN MEXICO.

Mr. POINDEXTER. I offer the resolution which I send to the desk and ask that it be read.

The Secretary read the resolution (S. Res. 484), as follows:

Resolved, That the President of the United States be, and is hereby, requested to transmit to the Senate a statement of what, if any, measures, diplomatic or otherwise, have been taken by this Government for the protection of citizens of the United States from violence in the disorders in Mexico.

Mr. BURTON. I ask that the resolution be again read.

The Secretary again read the resolution.

Mr. CULLOM. I move that——

Mr. POINDEXTER. In regard to the resolution I should like to suggest before——

Mr. CULLOM. I move that the resolution be referred to the Committee on Foreign Relations.

Mr. POINDEXTER. Mr. President, I ask unanimous consent, on the suggestion of the Senator from Virginia, which I am willing to accept, to strike out the word "directed" in the resolution, and to insert in place of it the word "requested." I ask that the resolution lie over one day under the rule.

I will say, in a sentence, in explanation of the resolution, that it simply calls, I think, for what the Congress is entitled to, namely, the advice of the Executive about a matter which has come to be one of vital importance to the country and upon which the Senate and House of Representatives have not, as yet, been advised by the President.

Mr. CULLOM. I think the resolution ought to be referred, and I move that it be referred to the Committee on Foreign Relations.

The PRESIDENT pro tempore. The Senator from Illinois moves that the resolution be referred to the Committee on Foreign Relations.

Mr. POINDEXTER. On that motion I should like to say that, if in order at this time, in view of the condition that is existing before the close of this Congress, the reference of the resolution to a committee would probably defeat its consideration. I think the resolution ought to come up for consideration in the Senate in regular order.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Illinois [Mr. CULLOM] to refer the resolution to the Committee on Foreign Relations.

The motion was agreed to.

Mr. FALL. I give notice that immediately after the morning business to-morrow morning I shall address the Senate upon the subject embraced in the resolution just submitted by the Senator from Washington.

The PRESIDENT pro tempore. Morning business is closed.

DEPOSIT OF PUBLIC MONEYS IN NATIONAL BANKS.

Mr. POINDEXTER. I call up and ask the action of the Senate upon Senate resolution 479, which I introduced on yesterday.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read the resolution (S. Res. 479) submitted by Mr. POINDEXTER on yesterday, as follows:

Resolved, That the Secretary of the Treasury be directed to report the list of securities which he has authorized to be accepted as security for Government deposits in national-bank depositaries, and what has actually been accepted as such security; and further, that he be directed to transmit to the Senate copies of all letters, telegrams, or other communications to or from Government officials relating to the recent Treasury Circular No. 5.

Mr. SHEPPARD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Texas?

Mr. POINDEXTER. I do not yield for the consideration of separate matters.

The PRESIDENT pro tempore. The question is upon the resolution just read. [Putting the question.] The noes seem to have it, and the resolution is not agreed to.

Mr. POINDEXTER. I ask for a division upon that question. The resolution simply calls for information about Treasury Circular No. 5, as to which a resolution was heretofore introduced and passed; but the report by the Secretary in response to the resolution did not contain the most essential information for which the Senate called. There is nothing unusual about the resolution at all, and in the ordinary course such resolutions are adopted. I ask for a division.

The question being put, there were, on a division—ayes 16, noes 8; no quorum voting.

The PRESIDENT pro tempore. The roll will be called.

The Secretary proceeded to call the roll.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. The roll call can not be interrupted.

The Secretary resumed and concluded the calling of the roll, and the following Senators answered to their names:

Ashurst	Cummins	Kavanaugh	Poindexter
Bankhead	Curtis	Lea	Pomerene
Bourne	Dillingham	McCumber	Richardson
Brandegee	Dixon	McLean	Sheppard
Briggs	du Pont	Martin, Va.	Simmons
Bristow	Fall	Martine, N. J.	Smith, S. C.
Bryan	Fletcher	O'Gorman	Smoot
Burnham	Foster	Oliver	Stephenson
Burton	Gallinger	Overman	Sutherland
Crane	Gardner	Owen	Thomas
Crawford	Jackson	Page	Townsend
Culberson	Johnston, Ala.	Percy	Webb
Cullom	Jones	Pittman	Works

The PRESIDENT pro tempore. On the call of the roll 52 Senators have answered to their names. A quorum of the Senate is present.

Mr. POINDEXTER. I ask for a division on the adoption of the resolution. That motion is still pending.

Mr. OLIVER. If it is in order, I would suggest that the question be again put on a viva voce vote.

Mr. SMOOT. Mr. President, I desire to say that I see no objection to the pending resolution. Such information as the resolution asks for is published almost daily by the Treasury Department.

The PRESIDENT pro tempore. Does the Senator from Washington ask unanimous consent to withdraw his request for a division?

Mr. POINDEXTER. I do.

The PRESIDENT pro tempore. The Senator from Washington asks unanimous consent to withdraw the demand for a division. The Chair hears no objection. The Chair will again put the question on the adoption of the resolution submitted by the Senator from Washington, which has been read.

The resolution was agreed to.

IMPORTATION OF TEAS.

Mr. POINDEXTER. I ask for the consideration of a resolution of a similar nature which I submitted on yesterday.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day.

The resolution (S. Res. 480) submitted by Mr. POINDEXTER on the 27th instant was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to transmit to the Senate copies of all correspondence, rulings, reports, and orders to or from officials of the Treasury Department during the years 1911 and 1912 relative to the importation into this country of green teas or colored teas and all documents and papers relating thereto in the possession of or under the control of the Secretary of the Treasury, together with a statement showing the importation of green teas into this country during the years 1911 and 1912, by whom imported, and the amount so imported.

MESSAGE OF HON. JAMES M. COX.

Mr. POMERENE. Mr. President, I have a copy of the message of Hon. James M. Cox, governor of Ohio, to the general assembly of that State, which covers the present-day legislative problems which are engrossing the attention of the public. The message presents his views in such a clear and comprehensive manner that I should like to have it incorporated in the CONGRESSIONAL RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The message is as follows:

FIRST MESSAGE OF GOV. COX TO THE GENERAL ASSEMBLY.

To the members of the senate and house of representatives:

I congratulate you upon your membership in the general assembly at one of the most auspicious moments in the history of our State; at a time when public intelligence is awakened as never before to the real importance of the relation of government to our social and economic life, and when it is responsive to the organic changes which our developing civilization clearly suggests.

The new order of things puts to the severest test the theory of governmental control over the diversified affairs of the race, but we are strengthened in the face of uncommon responsibilities by the reflection that every crisis has been met with successful achievement so long as the principle of exact justice to all remained the controlling consideration.

Within the last year the constitution of the State has been changed in many important particulars. A convention whose delegates were elected by the people without regard to partisanship framed 42 amendments. Of these 34 were adopted at the special election held September 3, 1912. A part of them go automatically into effect. Others grant the legislature discretionary authority, while a third class are mandatory in nature and are by common acceptance regarded as a command from the people. There can be no justification for any departure from the intent of these amendments in the detail of legislative compliance. Much has been said for and against the constitutional changes, but no unprejudiced person fails to recognize that their adoption is a distinct symptom of social and economic conditions. If the active forces which opposed several of the so-called major amendments had directed like energy in cooperation with the constitutional convention, the situation would have been improved, at least with respect to a fuller measure of confidence in the conditions to be developed by the departures we are taking from the beaten paths. This observation prompts the further thought that if every interest exhibits a patriotic cooperation in the legislative task ahead of you compliance with changed conditions and public sentiment will be greatly facilitated and the State will enjoy an era of social and industrial peace, unknown in the last two decades at least.

Progressive government, so called, which means in its correct understanding constructive work along the lines pointed out by the lamps of experience and the higher moral vision of advanced civilization, is now on trial in our State. Every constitutional facility has been provided for an upward step, and Ohio, because of the useful part it has played in the affairs of the country, is at this hour in the eye of the Nation. The State has the resources, human and material, to make a thorough test of the principle of an enlarged social justice through government, and the results of our labors will extend beyond State borders. A thorough appreciation, therefore, of the stupendous responsibility before you and full recognition of the probable insidious resistance to be encountered will add immeasurably to your equipment to meet the emergency. If I sense with any degree of accuracy the state of public mind, I am correct in the belief that a vast preponderance of the people of all classes have faith both in the wisdom and the certain results of a constructive progressive program of government. Let us, in full understanding of the consequences of our acts, maintain this measure of public confidence and encourage the faith of those who are honestly skeptical because of the apprehension generated in their minds by a third class, which may be unconsciously prompted by sordid impulses developed by unbroken preferences of government. No fair-minded person will dispute the logic nor question the equity of any plan which contemplates legislative action entirely within the limitations of suffrage indorsement. If the legislature, in the passage of a single law, runs counter to public desire or interest, the people, through the referendum, have the means to undo it. No greater safeguard can be devised by the genius of man, and to question either the moral or practical phase of this arrangement is to admit unsoundness in the theory of a republic. In other days changes in government such as are made necessary everywhere by our industrial and social conditions would have been wrought by riot and revolution. Now they are accomplished through peaceful evolution. He must be indeed a man of unfortunate temperamental qualities who does not find in this a circumstance that thrills every patriotic fiber of his being.

Even students of government in their research find surprising historic analogies to the conditions through which we are passing, the only difference being the scene and the displacement of violence by the arbitrament of reason. Civilization develops along the same lines, substantially. The first task is the necessity of food and raiment compelled by nature, and then common interest through society creates government. With this development comes also the economic organization growing out of social interdependence. If man as a social unit submits himself to regulation by government, then property can not be above the same restrictions. This is so fundamental in justice that its acceptance as a sound principle is a compliment to the ruling thought of the day, rather than an indication that we are taking a dangerous step. This enforces, however, the problem of ascertaining just how far governmental regulation of business should go and not trespass upon the rights of the individual. My observation leads me to the firm conviction that this is in considerable degree a personal equation, in administration at least. It matters not how sound a law is in theory if in practice its enforcement is delegated to incompetent hands; then government becomes a travesty and the cause of progress is injured. Business in Wisconsin, after several years' resistance of regulation, now accepts it in good grace, and frankly admits the widespread benefits that have accrued. But this result has been achieved only by the highest standard of personnel on the administrative boards. This must be an important consideration in our State. A policy of appointments induced largely by spoils or friendship will prevent the accomplishment of what our people now demand. At the same time prudence suggests that the controlling policy of these administrative organizations is safest in the hands of those who recognize and respect the responsibility placed upon the party in power. The success of administering government under our board or commission plan rests in large measure upon the heads selected by the executive. Each board has its peculiar requirements. Experience in fact teaches that the exactions of the personnel are as rigid as in the professions, and appointments should be made with this understanding. Every employee of the State should feel that, regardless of what circumstances bring his appointment about, he must meet the highest requirements in integrity and capacity. Our State government, in an administrative sense, to be successful as a State unit and through the vigilant eye of its police power assist the communities, must be maintained on a base having in view these considerations, namely:

First. The placing of experts in theory and practice on the State boards of administration and regulation.

Second. The orderly and systematic combination of departments which deal with the same subjects and problems and which are duplicating and in some instances triplicating both labor and expense.

Third. The fullest legitimate and wholesome exercise of the police power of the State in matters of human welfare, health conservation, and food regulation, where the local authority is remiss.

Fourth. The enforcement of the same requirements as to economy, system, and efficiency that join to private enterprises.

With these observations the executive department would, in the exercise of its constitutional prerogative, submit sundry recommendations:

Conditions not only justify but demand a drastic antilobby law. Any person interesting himself in legislation will not, if his motive and cause be just, object to registering his name, residence, and the matters he is espousing with the secretary of state or some other authority designated by your body. If his activities be of such nature that he does not care to reveal them in the manner indicated, then the public interest is obviously endangered. It is no more than a prudent safeguard to have it known what influences are at work with respect to legislation. There ought to be no temporizing with this situation. Lobbying without registration should be an offense punishable by imprisonment.

The platform adopted by the Democratic Party in convention at Toledo, June 4–5, 1912, is the contract made between the people on the one hand and the State officers and majority members of the legislature on the other. Every instinct of common honesty demands that it be carried out in good faith without interference from other legislation. The specifications in this covenant are:

First. "A short ballot in the selection of administrative officers as a means for insuring greater scrutiny in the selection of public officials and for fixing and centralizing responsibility."

The purpose of this is to simplify voting. The suffrage responsibility is so vital that confusion at the polls should be reduced to the nearest possible minimum. The ballot should be shortened by abolishing as elective the less important offices. The amendments to the constitution which abolish the positions of commissioner of common schools and the

board of public works and places these departments under the control of the governor through appointment by him of the administrative heads indicate the trend of thought on this subject. In keeping with the intent of the short-ballot provision, the legislature should abolish as elective the offices of dairy and food commissioner and clerk of the supreme court, both of which are of legislative origin, making the former position appointive by the governor and the latter by the members of the supreme court. An amendment to the constitution should be initiated making the positions of secretary of state, attorney general, treasurer, and auditor executive departments, to be filled through appointment by the governor. This would leave only the governor, lieutenant governor, and judges of the supreme court to be elected. The result would insure harmony of action in the State departments and center responsibility in the executive. The several executive department heads could then act in an advisory capacity with the governor as his cabinet. This is identical with the Federal plan, which is conceded to be efficient.

Second. "Separate ballots for State and national officers."

This is induced by the desire to separate two distinct issues at the election booth, and the wisdom of the suggestion is obvious.

Third. "Home rule for cities."

This principle is now a part of our constitution. The home-rule amendment, in addition to authorizing cities to form their own charters, grants the general assembly the right to pass alternative or optional laws which cities may adopt without going through the expense and burden of calling charter conventions and enacting charters for themselves. The whole question of municipal organization is now in a ferment throughout the country, several plans being tried out. Up to this time there is nothing approaching a universality of opinion with respect to the most efficient scheme. I would therefore recommend to the legislature the adoption of such laws as will enable cities, with the minimum of expense and trouble, to make such selection as their respective needs might suggest, either the so-called business-manager plan, the commission plan, or the short-ballot Federal plan. The last named is obtained by a simple revision of the existing municipal code. It is proper in this connection to call your attention to the fact that the Ohio League of Municipalities, which drafted the home-rule amendment to the constitution, represents so much of the best-informed opinion of the cities of the State that its recommendations, to be made to you, might profitably be seriously considered in your deliberations on this subject.

Fourth. "The immediate valuation of property, tangible and intangible, of all public utilities."

The State regulation of public utilities has been of such benefit to every interest concerned that every possible legislative facility should be extended to this administrative branch of the government. Regulation is beginning to shed its real meaning in this State as elsewhere. While business interests at first regarded the operation as an unwarranted trespass upon property rights, they have, by experience, found in the State a cooperative aid just so soon as the main objective of satisfactory service and reasonable rates was attained. It is also regarded as more than a coincidence that wherever supervision is had over the issuance of securities the market yields better prices and readier demand. Public confidence is naturally stimulated in our State utilities by official certification to the legitimacy of the project.

There is no department of our service, however, where public station calls for a higher order of efficiency than this. Constructive progress in government consists in large degree in determining the limitation of control over the great industrialism of the day, and this must be approached in fairness and intelligence. Whenever regulation is not the highest expression of human intelligence then government becomes a travesty and public opinion is very apt to swing back in favor of the old order. If, however, a regulatory commission balances evenly the elements of successful practical experience, profound and correct theory, and a courageous adherence to fairness both to the State and to business, the result is so self-evidently just that public confidence is enduring and the plea for the old days of inequitable preference by government is useless. The existing law gives to the commission the right to make a physical valuation. This should be made mandatory. The utility and tax commissions have made considerable headway in working out the detail of valuation. But their labors in this particular have been confined almost, if not entirely, to cases which came to their notice by requests for increased capitalization or complaints with respect to taxation values. There can be no permanent nor logical base for the successful operation of these departments without a physical valuation of utilities. After considerable investigation, which has taken in the experience of other States, I am convinced that a State engineer of utilities should be employed under the direction of the utilities commission. His operations would prevent much duplication in work, because his findings would be available to the tax commission also. For taxation purposes the inquiry often of necessity proceeds along different lines, but every valuation made by the State engineer would serve as a base for both commissions. The State is educating at public expense several hundred engineers in the university. These students need practical work in connection with their classroom studies. The State can use their services, so that the reciprocal situation suggested is so logical that one need not wonder at the splendid results achieved in Wisconsin by coordinating the government and the university. Under supervisory aid from the engineer's office these students would render tremendous service to the State and at a minimum of cost. Sufficient provision is made for the utilities commission, through fees and appropriations, to set this work in motion, and the legislature should render the earliest possible cooperation. The utilities commission, so called, was created as a railroad commission, and many laws relating to it were made with special regard to the specific subject of railroad supervision. Since then a general utilities law has been passed and the administrative work, tremendous in volume and detail, has been consigned to the original commission. I would strongly recommend such changes in the laws as the experience of the commission clearly suggests. The home-rule amendment gives the municipality the right to own and operate utilities. Because of this the utilities commission should have the right to enforce the same system of uniform accounting on municipalities operating utilities as are now imposed upon private enterprises, otherwise the public would have no means of knowing whether the municipal plants were conducted along the lines of efficiency and economy. It would be a simple matter to charge certain operating expenses to betterments and an apparently profitable operation by the municipality might, in fact, be a losing one. There must be the greatest possible safeguard established or there can be no accurate test of municipal ownership. Besides, plain fairness suggests that in the operation of utilities both private and public ownership must be subject to the same standards of ethics and government.

One development of the railroad and utilities laws which has been very unfair to the State should be corrected. Under present practice the commission establishes or revises a rate. The utilities company, if it desires, makes objection and is given a hearing, which is exhaustive and extensive. The commission then neither amends or retains the rate previously fixed, whereupon, the corporation, in many instances, goes into court, asks for and receives an injunction. The delays of the law are well known and the issue remains unsettled for a year or more. The law should be so changed that the court can not issue an injunction in these rate matters without an investigation. This is the practice elsewhere and should be adopted in Ohio.

Fifth. "Home rule in taxation."

This requires constitutional changes and nothing can be done save the adoption of a resolution in behalf of an amendment to the State charter.

Sixth. "The adoption of the initiative and referendum amendment."

This was merely a recommendatory plank. The initiative and referendum, so called, is now a part of the constitution, but some action by your body remains to set it in motion. The intent of this amendment is to give to the people the right to redress a wrong through the referendum, and through the initiative to procure a right that has been denied. The legislative action should be in exact harmony with the spirit of the provision. Something should be done to prevent the professional practice of procuring signatures for pay, but at the same time there must be the utmost vigilance exercised; otherwise under the guise of an attempt to refine the law, it might be made unworkable.

Seventh. "Further reduction in the hours of labor for women, and further restriction on the right to employ children in factories."

The inspector of workshops and factories strongly urges raising the school-grade qualification for children between the ages of 14 and 16, and joins in the opinion shared by industrial commissions in other States, that the most wholesome results can be obtained by giving to the department the right to determine the hours of labor for women and children where the present nine-hour law seems insufficient. This is not only regarded as the easiest method of reaching a solution of this question, but it would quickly result in the betterment of shop conditions, improvement in sanitation and surroundings being a factor in determining the hours of labor. In this connection it should be stated that the governmental experts in Wisconsin regard the success in that State to be due in considerable part to the discretionary powers lodged with the administration officers.

Eighth. "The reaffirmation of the proposed amendment to the Federal Constitution providing for the popular election of United States Senators."

This has already been done by the legislature, but a legal question has arisen out of the issue created by the rendered opinion of the governor of Georgia. It is suggested that your body take such action as the successful outcome of the just and popular movement demands. No harm can come from the adoption of another joint resolution on the subject.

Ninth. "Legislation looking to the improvement of the roads and highways of the State."

Some hold to the opinion that the defeat of the good roads bond issue amendment to the constitution disposes of that question, so far as State activity is concerned. I do not subscribe to that view. Observation in all parts of the State leads to the belief that the amendment failed to receive indorsement for the reason that a majority of the counties have good gravel roads, and they objected to a State levy until such time as the counties, less advantageously equipped, both in roads and construction material, had made the progress of other counties under existing laws. The Federal Government is working out splendid development in the science of construction, drainage, and maintenance, and it would seem an incongruous circumstance if the State did not exhibit the same degree of interest and convey the benefits which the general scheme of government logically extracts from that unit. Nothing makes for civilization more than good roads. An emphasized community life, improved facilities for school attendance, and better means of traffic in foodstuffs, are considerations which join to the general welfare of the State. I know of no internal improvement which so widely distributes its benefits. It touches vitally producers and consumers of the farm and the city as well. The road laws of the State are archaic and conflicting, and the movement toward better highways is seriously hampered in consequence. These laws should be recodified. My information is that the preliminary labors of this task, not an inconsiderable one by any means, have been performed without public cost by the good-roads organizations. Iowa has profited by the law compelling the use of the split-log drag, and it is strongly recommended to you for adoption. Under existing law we are taxing automobiles by machine unit. As this is purely a police regulation, the expense should be imposed in a more equitable way. Admittedly the best automobile law is the New York measure.

The tax is levied on the unit of horsepower. It is not fair to make the owner of a machine of small horsepower and low speed pay to the State for the purpose of maintaining the cost of police control as much as is assessed against the proprietor of a big machine of high speed and large horsepower. The revenues to the State from this source are showing heavy increases, so that the highway commission, in consequence, may be enabled, without State levy, to work out an extensive improvement plan in the State. It is highly important that there be given the greatest possible cooperation by legislative enactment to the improvement associations, so called, that have been organized in some of the counties. Portage County, Ohio, is probably the most notable instance in this country. Nothing in discouragement should be done by the State. On the other hand good-roads students are agreed in the opinion that they are entitled to such cooperation as will facilitate this important county function. I unhesitatingly subscribe to this view. The old national road, running almost midway through the State, east and west, should be improved from our eastern border to our western line, as the first State-wide highway. But the condition precedent should be such cooperation on the part of the counties through which it passes as will reflect an adequate appreciation of the local benefits to accrue.

Tenth. "Continuation of the reform in the conduct of the State's penal institutions, which has been inaugurated, and the abandonment of the present prison system," etc.

The commendation of the board of administration plan is fully justified by results obtained, but there is much yet to be done. In fact, every commission created during the last few years finds its function of wider benefit to the public interest than the authors of the legislation doubtless contemplated, and yet the administrative heads find many changes needed in the laws. This is not surprising since our laws can only properly be refined by experience. The public must not gain from the recurrent difficulties in the State institutions an impression that the board of administration plan is wrong in theory. The troubles encountered in the institutions of correction are more fundamental. The wisest management the mind can devise and the most

human policy the heart can inspire can not correct the basic defect of improper commitment. Your honorable body will find this a fruitful field of inquiry. Local officials in some sections of our State commit persons to the wrong institutions, and no matter how obvious the mistake, nor how serious its consequences to the management, the board of administration has no authority to make the simple transfer that would remove an otherwise insurmountable difficulty. It is unfair to the institution to send to a girls' home, for instance, young women of hardened depravity. Their influence over others, whose misfortune has been that of environment and who can, under proper conditions, be benefited, can not but be harmful. At Lancaster, where the State is supposed to render service in improvement of morals, boys are committed who are feeble-minded. A few such charges can upset plans and policies of management that otherwise would work out along orderly and beneficial lines. The board of administration should be clothed with the power to review all commitments, and thus establish a base of homogeneity at least. A few counties by careless assignments from the courts can disorganize the whole machinery of the institutions and produce a seemingly impossible problem for the whole State. The board should also have the right to sit as a lunacy body over State charges and make transfers from one institution to another. Other States have found this a logical and practical arrangement. It will simplify administration and also work as an implied qualification for the members, because there should be on this body at all times at least one officer who knows by professional experience the problems of this peculiarly exacting relation.

I direct your especial attention to the declaration in behalf of a "new penitentiary built and conducted upon plans drawn in accordance with the modern thought on this subject." This project needs no defense because it was a part of the contract made with the people, and no opposition to it was voiced during the campaign when the issue was under discussion. This platform pledge was not made without considerable understanding of the whole prison situation in Ohio, nor did the people of the State give their indorsement without knowing both the purpose and necessity of the change. The facts justify the statement that no subject has taken greater hold on public interest, in years, than that of prison reform. The best thought on the subject is opposed to the Ohio policy, and every condition wrought through an appreciation of the human welfare phase of the problem makes our prison system stand out as an institution of the past, unchanged by either its tragedies or by a civilization that has laid hold on every other human agency.

Our whole system is a plain travesty on human intelligence. It is as much of an outrage to sentence an habitual criminal to three years in the penitentiary as it would be to consign a hopeless lunatic to an asylum for three years. It is as much a crime against society to release from prison gates a known criminal as it would be to turn loose a maniac. At the expiration of a prisoner's term some constituted authority should pass on the propriety and safety of turning him loose. No lesson will be more helpful to him than self-restraint, and liberty should be given only when it is earned and deserved. But the hopeless criminal is in the minority in our prison. During the year 1911 there were received 702 prisoners at the Ohio penitentiary. Of this number 95, or 13 per cent, had served one or more previous terms. Ten had been out of prison only 6 months, when they were returned; 11 of them between 6 months and 1 year; 11 between 1 year and 18 months; and 13 between 18 months and 2 years. The remaining 50 were out more than two years, but some of them had, while away, served in other prisons. Common sense easily differentiates as between this class of prisoners and those who can be benefited by humane methods. The problem of prison reform involves considerations quite apart from erecting a building, a railroad switch, new cells, a dining hall, a power plant, a sewerage system, and higher inclosing wall. The underlying desire is betterment of the rate, the reform of as many prisoners as possible, aid to their families, earned by the men confined, and a contribution to the next generation of fewer human shipwrecks. The mention to the details of physical equipment is made necessary because objection has within a few days been made to the legislature against the prison reform plan, one of the chief reasons being past expenditure of vast sums of money for physical improvements in furtherance of the policy of continuing the old methods and the old institutions. I regret the necessity of dissenting from the view of my distinguished and able predecessor, and yet the question is so vital that I can not in conscience withhold expression of firm conviction on the subject. Over 600 prisoners in the penitentiary are idle. Their time is doubtless spent in reflection over their own disgrace and the plight of their families back home. The present method offers no apparent relief from this unspeakable condition. If employment can be afforded for the physical, mental, and moral benefit of these prisoners in such manner as will yield reimbursement to the State for their keep, and an accruing profit to be sent to families deprived of their support, then this humanitarian consideration must outweight every thought of continuing the present abominable system simply because a considerable amount of money has been spent at the old prison. I would much prefer the task of defending the new project to that of attempting to justify the enormous disbursements of money in maintaining the old one. I can not subscribe to the view expressed that in providing by law for imprisonment of offenders "the primary purpose is punishment." The spirit of the provision seems to suggest that an example be made of the offender by banishment, which in itself is not insevere, and that the agency of the State should then be directed to the reformation of the prisoner, if it develops there is a moral base to build on. Otherwise he is an habitual criminal, and his liberty is a distinct menace to society.

My recommendation would be that the legislature ascertain whether sufficient land is now owned by the State for the purpose of supplying adequate food products for the several institutions. If not, the expense of buying more land will be abundantly justified by the results. More live stock should be kept on these farms, for the double purpose of adding to the food supply and increasing the fertility of the soil. On the State farm we should begin at once the erection of at least one building unit for the shelter of prisoners and the building operation should continue under such scope as the fiscal condition of the State justifies. The extensive operations of the State departments of agriculture call for much manual labor.

The highways can be worked by convicts by a simple change in the laws, and legislative revision will also make possible the employment of prisoners on State buildings. These operations, added to the work in the stone quarries, will doubtless call for enough men to cover the honor list, because the privilege of working out of doors should be earned by good behavior. Those who can not in measurable safety be occupied in the methods described must of necessity be confined. They can be retained to carry on the manufacturing work in the prison, where clothing and other necessities are being made for the inmates of the State institutions. Our better instincts resist the thought of the State making any money off the labor of prisoners. During good behavior they should be given credit for a day's labor in such sum as measures their contribution to the State. From this the cost of their keep should be taken, and what remains, certainly in all fairness and right, belongs to their families. This plan will in short time reduce the prisoners who must be kept in close confinement in such numbers that the maintenance of the old prison plant on ground now possessing great commercial value will be most impracticable. The equipment in the old penitentiary used for lighting the State buildings can be set up in any one of the other State institutions at the capital and operated there with equal efficiency and economy. I therefore strongly recommend such legislative action as will work the changes suggested in the State institutions.

Eleventh. "The licensing of the liquor traffic."

The indorsement of this plan was followed by suffrage ratification of the constitutional amendment on the subject by a majority vote sufficiently large to form a safe index to the state of public opinion. It therefore becomes the duty of the legislature now to carry into practical operation the new scheme of regulating the liquor traffic. For years this question in Ohio has been the football of politics. Not only has the so-called wet and dry question been the means of disquieting community life, but it has formed divisions in the legislature and occasioned confusion in such measure as to seriously interfere with the proper settlement of strictly economic questions. The action of the constitutional convention was a positive reflection of the public desire to approach and dispose of this subject on the base of common sense, having high regard for the public welfare. The question has been so interwoven with the politics of communities that expediency generated for years evasion on the part of many public officials. The whole thing seemed to hang in the balance, and it is my judgment that the constitutional convention acted wisely and well, not only in adopting a license proposal but in so prescribing the constitutional limitations as to keep within the hands of the people the power at all times to deal effectively with this problem. The constitutional amendment provides that the liquor traffic shall be licensed where the saloon now exists. Conditions are in nowise changed where the people have by suffrage expression removed the saloon. No person not a citizen of the United States nor of good moral character can procure a license. The most extensive investigation has been made with respect to the experience of Massachusetts, Pennsylvania, Illinois, and Canada, and this leads me to recommend this basic feature of the law, namely, that a license commission, consisting of not less than three persons, shall be appointed by the governor, and that this body shall, with the consent of the governor, select the commissions in the so-called wet counties. The success of this law and its operation in harmony with public desire depend not only upon the highest possible personnel in administration, but responsibility must be so centered that the whole machinery of regulation can be kept efficient. The suggestion that the local commissions be elected in the counties is to me unthinkable. The whole underlying purpose of this license arrangement is to lift the liquor question from community politics. The State plan in some degree keeps it in politics, but on a better base. It can be safely assumed that the people of this State will give closer attention to the election of a governor than to that of a county license commission. There will be no serious suffrage neglect in the election of a governor. There might be in the election of a county license commission, and this would develop a travesty out of a scheme of administrative government the details of which have been worked out up to this time with a most painstaking care. If the license plan is correct in theory, it is entitled to test under the most advantageous auspices. It is a matter of such concern to the State that authority must not be scattered.

The law should assess against the traffic the cost of all administration, in addition to the present tax. The proposal in expressed terms says that the license and regulation plan in no way "shall be construed as to repeal, modify, or suspend any such prohibitory or regulatory laws now in force." The Toledo platform indorsed the license plank, and this should in good faith be the only liquor law passed at this session. Otherwise a distinct wet and dry issue will be obtruded to interfere with the adoption of an effective license code. It may also by divisions created seriously embarrass our legislative program on other subjects. Precaution is urged against "sleepers," so called, which might conflict with the intent of the amendment very broadly and plainly expressed, and thus throw the whole question into the courts. The State is entitled to something approaching, at least, a final settlement of this matter.

No one disputes the propriety of the mandatory amendments, so called, being recognized as a direct command to the legislature to pass certain laws in relation to respective subjects. A number of the amendments are self-operative.

No. 14 provides that "laws shall be passed providing for the prompt removal from office upon complaint and hearing of all officers, judges, and members of the general assembly for any misconduct involving moral turpitude or for other causes provided by law; and this method of removal shall be in addition to impeachment or other method of removal authorized by the constitution."

There is no one thing that has contributed more to social unrest than the abuse of power by public officials. The spirit of our institutions certainly contemplates that power be given to the people superior to their representatives. Government has been made more representative by direct legislation established by the initiative and referendum than ever before. If the people have the right to set aside a law, then certainly some power exceeding that given by the old constitution should be available for the purpose of removing any delinquent public official. There has been considerable sentiment in behalf of a direct recall. Many members of the constitutional convention believed this to be too drastic, so the proposal finally adopted is a compromise along what appears to be very common-sense lines. Under the new arrangement the legislature is directed to pass laws remedying any situation developed by official remissness. "Prompt removal from office, upon complaint and hearing of all officers, incluring State officers, judges, and members of the general assembly, for any misconduct involving moral turpitude or for other cause provided by law" is the constitutional specification with respect to your legislative duty. While the legislative provision should be effective in correcting an obviously bad condition, it should be sheltered with such safeguards as will prevent any possibility of intrigue against public officials, and it should not be so shaped as to inspire the caprice of an insincere and inconsiderable minority.

Section 286 of the general code makes provision for the recovery of misappropriated funds. The reports made by the bureau of inspection and supervision of public offices, since the creation of the bureau, discloses an unhealthy condition of affairs in many taxing districts in the State. The people's money has been appropriated by public officers illegally, under the forms of law; the reports disclose that for the year

1910 findings to the amount of $261,446.81 were made against the public officials in the various taxing districts of the State, on account of the drawing of fees not provided for by law and the misapplication of funds in various forms; in 1911 the findings disclose misappropriation of $837,596.33; in 1912 of $232,285.03. This should not be; our laws should be so framed and executed that the misappropriation of funds would be reduced to the minimum—in fact, there is no excuse for any noticeable amount under this head. True, on account of changes in the laws and differences in interpretation, there may be small overdrafts, due to no willful action of the official; but, in my judgment—and such is the information imparted to me from the proper official sources—most of the misappropriations are inexcusable, and provision should at once be made to effectually recover into the treasuries of the various taxing districts of the State all funds misappropriated.

By virtue of section 286, General Code, it is provided that "if the report discloses malfeasance, misfeasance, or neglect of duty on the part of an officer or an employee, upon the receipt of such copy of said report it shall be the duty of the proper legal officer, and he is hereby authorized and required, to institute in the proper court within 90 days from the receipt thereof civil actions in behalf of the State or the political divisions thereof to which the right of action has accrued, and promptly prosecute the same to final determination to recover any fees or public funds misappropriated or to otherwise determine the rights of the parties to the premises. * * * Upon the refusal or neglect of the proper legal officer to take action as herein provided, the auditor of State shall direct the attorney general to institute and prosecute the action to a final determination of the rights of the parties in the premises, and he is hereby authorized and required to do the same."

To my mind it is not fair to the State that it should be put to the expense of doing the work properly belonging to county prosecutors and city solicitors, work for which these officials are elected by the people and paid. Instead of casting upon the attorney general the duty of collecting misapplied funds, upon the mere refusal and neglect of the prosecuting attorney, the statute should be so amended as to give full power to the attorney general to require the prosecuting attorneys and city solicitors to proceed to the discharge of their duty, making such failure to do so an effective ground for removal from office. The detail of this plan, which will involve the amendment of section 286, general code, should be worked out more fully than herein suggested after consultation with the auditor of state and the attorney general, who are in a position to understand the deficiencies of the present plan. If county prosecutors and city solicitors are required under pain of removal from office to enforce recoveries under this section, and conduct criminal prosecutions as well when the circumstances warrant, there is no doubt but that an effective check will be put upon the practice of misappropriation of funds.

Another matter touching the legal department is this: A great deal of unnecessary delay and great inconvenience has been caused during the past two years on account of injunctions being issued against State officials and departmental boards without notice, and also from the fact that neither the attorney general nor the boards or officers interested have had notice of suits filed in which they were vitally interested until the time for answer had expired. There is no reason why, in any case, an injunction should be issued without notice against State officers or boards in the performance of their duties. When an injunction is thus issued it is often a difficult or vexatious matter to get the case heard, as the plaintiff, so long as the injunction is in force, has all that he desires. I therefore recommend that a provision be made similar to the one now incorporated in the act relative to the tax commission, that no court in this State issue an injunction against a State official, department, or board without notice to said official, department, or board, or to the attorney general. I further recommend that a provision be incorporated in the code by which it is made mandatory upon the clerk of the courts to forward, by special delivery letter, a certified copy of every pleading filed by the adversary party against the State of Ohio or any of its officers, boards, or departments, and a copy of the petition in any case not brought directly against the State or any of its officers, boards, or departments, but in which the interest of the State may be involved, or whenever the constitutionality of an act of the Ohio Legislature is involved, the costs of making said copies to be taxed as part of the costs of the case.

Proposals 19 and 20 relate to the reform of the judiciary. I yield to no man in my appreciation of the finer traditions of this great calling, but it is generally admitted that judicial procedure needs simplification in this State. The delays of the law made a situation which the constitutional convention, primarily at least, sought to correct when it adopted these amendments. The State Bar Association has been cooperative, so I am advised, in the matter of preparing suggestions with respect to the laws necessary to carry out the intent of the amendments. The people of the State are, I believe, fortunate in having strong legal talent on both the house and senate judiciary committees. The courts constitute that part of our government which deals with the philosophy of social justice, and the changes made in the laws with respect to the courts should claim the profoundest consideration of your honorable body. It is recognized as a detail of great importance that every possible facility be provided to insure some degree of uniformity in the action of the courts of appeals, because these bodies, eight in number, will be the courts of last resort in many cases. It seems to me that a modern and effective method of reporting decisions will obviate possible confusion.

Proposal No. 26 relates to primary elections, the provision being that all nominations for office in the State or any subdivision thereof having a population of over 2,000 must be made by primary election or by petition. Nominations for offices in districts with a less population are not so made unless the qualified electors thereof so desire. All delegates to national conventions of the different political parties are to be chosen by primary and provision is made for a preferential vote for United States Senator. Candidates for the office of delegates to the national conventions are required to state their preference as between the different candidates for the Presidency. This is merely another manifestation of the desire to bring the details of government down closer to the individual unit. The evolution of politics clearly suggests the propriety of this arrangement. This law should be so drawn as to provide equality of opportunity as between men of small and large means in presenting their claims for the consideration of the electors.

Proposal 27 amends article 6 of the constitution as follows:

"Provision shall be made by law for the organization, administration and control of the public-school system of the State supported by public funds."

Because of its far-reaching influence and the further fact that the schools form the real base to our institutions and civilization, this constitutional change imposes upon the legislature a great responsibility. It will be noted that provision is made for the organization of a school system in Ohio. Whether this phraseology was so intended or not, still in plain words it exhibits a very serious lack in our government scheme, because Ohio really has no uniform school system. Instead, we have a variety of school systems, and the truth is that Ohio does not rank with many of the best States in the Union in the matter of her public schools. This subject suggests possibilities of such stupendous moment to the people that legislation should be preceded by investigation. It is my judgment that a complete school survey should be made of the State. This plan has been followed by a number of States in the last few years and the conditions existent in many parts of these Commonwealths have been surprising to the people. If a survey is made in Ohio there will be found such a number of school systems as to clearly index the disorder and incongruity of our present archaic structure. No one will deny the need of complete uniformity in the method of teaching, sanitation, etc. Other States have found it necessary to withhold the distribution of the State common-school funds to all districts until they have fully complied with the laws relative to the length of term, minimum salary, institute pay, janitor service, compulsory attendance, and all reports required of the department of public instruction. It is the executive recommendation that a commission consisting of not less than three persons, to be selected by the governor, be created for the purpose of conducting a complete school survey of the State and reporting a plan of school supervision. The bureau of municipal research in New York City has been of untold assistance to every State undertaking this great work, and we have the assurance of cooperation from experts employed by that bureau when be begin here. It is pertinent to quote a statement recently received from William H. Allen, one of the directors of this organization. He says: "You may be interested that following the announcement of our report several weeks ago on Wisconsin rural schools requests have come to us already from 34 States. Eighty-two cities, several normal colleges and many universities are using the report for textbook purposes to interest teachers in looking for deficiencies in their own environment and methods." The result of this survey will enable the State to provide and maintain a modern and uniform school system and bring to every community the advantages wrought by the best thought and research. The commission should by all means be empowered to work out some system of standardizing textbooks in order that the expense of education might be reduced and the recurrent school book scandals made a thing of the past.

Proposal 32 amends article 7 of the constitution in several important respects. The mandatory provision directs the legislature to pass laws "taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property according to its true value in money, excepting all bonds at present outstanding in the State of Ohio, or of any city, village, hamlet, county, or township in this State or which have been issued in behalf of the public schools in Ohio and the means of instruction in connection therewith, which bonds so at present outstanding shall be exempt from taxation."

Your body is given the right to provide legislation taxing incomes, inheritances, and franchises. The authority is also extended to impose taxes on the production of coal, oil, gas, and other minerals. The underlying spirit of taxation contemplates an arrangement under which contribution for governmental support shall be proportioned as nearly as possible to the benefits received. The amendment to the constitution licensing the liquor traffic reduces the number of saloons in the State and this automatically will greatly curtail both the State and local revenues. With this decline in income and the State limitation on the local tax rate carried by the 1 per cent tax law it will be necessary not only for the State but local subdivisions to procure revenue from other sources. There is no tax more just than that upon incomes. The constitution permits the exemption of incomes up to $3,000, so that it would not bear heavily upon a single individual. With inheritances the constitution permits the exemption of estates up to $20,000. This form of taxation is sanctioned by usage in a great many of the States. Franchises are a thing of absolute value and constitute in many instances a gratuitous contribution by government to private and corporate interests. This is also an equitable plan of taxation. With the constitutional right to tax inheritances, incomes, and franchises and the production of coal, oil, gas, and other minerals there is abundant facility to provide for the depletion in revenue occasioned by the revision of the liquor laws and to take care of any other emergency which might arise.

Taxation is always a live subject, and I may later submit recommendations touching on matters apart from the provisions either of our platform or the mandatory amendments.

Article 15 of the constitution as amended provides that "Appointments and promotions in the civil service of the State, the several counties and cities, shall be made according to merit and fitness, to be ascertained as far as practicable by competitive examination. Laws shall be passed providing for the enforcement of this provision."

It therefore becomes the duty of the legislature to establish a civil-service system extending to the State, counties, and municipalities. This obtains now in cities and it would be my suggestion that they be permitted to operate through their own civil-service commissions to the extent that no conflict occurs with the State law. Wisconsin and New York have recently installed a civil-service system. It has for its purpose the establishment of a merit system and giving to every citizen the competitive right to enter the public service. The experience of other States demonstrates the importance of so shaping the law as to make it much more difficult to get into the service than out of it. I mean by this that the test should be so high as to insure competency, and that no provision should in the least degree exempt an employee from the responsibilities of the station. The criticism most heard of the Federal civil-service law is that an administrative officer is without simplified power to remove an incompetent employee. My suggestion to the legislature would be that the expense of this commission be kept to the nearest possible minimum. The logical tendency is toward government by commissions or bureaus. No needless organization should be created, but when necessity suggests a new administrative unit, every precaution should be exercised against the establishment of sinecures.

This disposes of the so-called mandatory amendments to the constitution.

The public interest, I think, demands the passage of a so-called "blue-sky law," as provided for in the amendment to article 13 of the constitution. It is conceded that our citizens have been robbed of millions of dollars through the sale in this State of worthless securities. Some may urge that the State should not be constituted as a financial guardian of its citizens. Under the common law it is unlawful to procure money under false pretenses, and it is difficult to resist the conclusion that the real spirit of the law would bring the

sale of fictitious stocks and the procurement of goods under false pretenses in the same moral classification. The Kansas law on this subject prevents the sale of securities in the State until they have been passed upon by some constituted State authority. There is a difference between "wildcatting" in brokerage operations and the legitimate investment houses. It is recommended, therefore, that the law be so framed as to stamp out illegitimate practice and conserve the legitimate.

It would certainly be common bad faith not to pass a compulsory workmen's compensation law. No subject was discussed during the last campaign with greater elaboration, and it must be stated to the credit of our citizenship generally that, regardless of the differences of opinion existent for many years, the justice of the compulsory feature is now admitted. Much of the criticism of the courts has been due to the trials of personal injury cases under the principles of practice which held the fellow-servant rule, the assumption of risk, and contributory negligence to be grounds of defense. The layman reaches his conclusion with respect to justice along the lines of common sense, and the practice in personal-injury cases has been so sharply in conflict with the plain fundamentals of right that social unrest has been much contributed to. A second phase of this whole subject which has been noted in the development of the great industrialism of the day has been the inevitable animosity between capital and labor through the ceaseless litigation growing out of these cases. The individual or the corporation that employs on a large scale has taken insurance in liability companies, and, in too many instances, cases which admitted of little difference of opinion have been carried into the courts. The third injustice has been the waste occasioned by the system. The injured workman or the family deprived of its support by accident is not so circumstanced that the case can be contested with the corporation to the court of last resort. The need of funds compels compromise on a base that is not always equitable. Human nature many times drives sharp bargains that can hardly be indorsed by the moral scale. In the final analysis, the cost of attorney fees is so heavy that the amount which finally accrues in cases of accident is seriously curtailed before it reaches the beneficiary. These three considerations clearly suggest the lifting of this whole operation out of the courts and the sphere of legal disputation. And then there is a broader principle which must be recognized. There is no characteristic of our civilization so marked as the element of interdependence as between social units. We are all dependent upon our fellows in one way or another. Some occupations, however, are more hazardous than others, and the rule of the past, in compelling those engaged in dangerous activities to bear unaided the burden of this great risk, is not right. The workmen's compensation law in this State, which, however, lacks the compulsory feature, has made steady growth in popularity. The heavy decrease in rates clearly indicate economy and efficiency in the administration of the State liability board of awards. The compulsory feature, however, should at once be added. I respectfully, but very earnestly, urge its adoption amendatory of the present law with such other changes as experience might dictate. There is some force and justice in the contention that the employers should be given the option of insuring either in the State fund under the liability board of awards or in liability companies which have met all the requirements of the State department of insurance. If the State board gives better service and lower rates it will be perfectly apparent that the liability companies are operating on the wrong base. If, on the other hand, insurance concerns yield an advantage in both service and rates, then it would be safe to assume that efficiency and economy of administration are lacking with the State board. The competitive feature may be wholesome. The objective to be sought is the fullest measure of protection to those engaged in dangerous occupations with the least burden of cost to society, because, after all, the social organization must pay for it. The ultimate result of this law will be the reduction in death and accident, because not only the humanitarian but the commercial consideration will suggest the necessity of installing and maintaining with more vigilance modern safety devices.

Government as a science must make its improvement along the same practical lines which develop system, simplification, classification of kindred activities and better administrative direction in the evolution of business. A private or corporate enterprise is compelled to promote in the highest degree both efficiency and economy because its income is subject to the hazards of business. Government without this spur of necessity, because its revenue is both regular and certain, does not effect reorganizations and combine common activities so readily. One reason, of course, is that new legislation is required and that is not easy at all times. Wherever human energies are now being directed toward more efficient public service we find the consolidation under one administrative unit or bureau of all departments which deal either in direct or different manner with the same general subject. Investigation develops many duplications in both labor and expense in the departments of the State. No business institution would continue such a policy, and recognizing now the importance of conducting the business of the Commonwealth along the same modern and efficient lines of private and corporate operations, there is submitted herewith to your honorable body two recommendations which in my judgment are of tremendous importance, namely, the creation of an industrial commission and a department of agriculture. The first-named organization would combine every existing department which deals with the relation between capital and labor. It is certainly a logical observation that the department heads clothed with the responsibility of details will find it extremely difficult to rise to the moral vision necessary to construct and conserve policies dealing with big things. Besides duplication of service is a waste of both human energy and State funds. The bureau of labor statistics is in charge of a commissioner, and the expense for the past year was $32,460. The department of inspection of workshops, factories, and public buildings is directed by a chief inspector, and the expense for the year was $80,240. The State mine inspection department is in charge of a chief inspector, and the cost for the year was $42,040. The department of examiner of steam engineers is in charge of a chief examiner. It was run at a cost of $32,700. The department of inspection of boilers or board of boiler rules is composed of five members, including the chief engineer, who is chairman of the board, and who gives all of his time to the State. His salary is $3,000. The compensation of the other four members is $1,000 each. This department cost the State last year $40,700. The State liability board of awards consists of three members, who receive a salary of $5,000 each. It cost the administration for the year $42,081. The total is $270,221 for these departments, not counting additional provisions by the emergency board.

These several departments touch the relation of capital and labor. In some of the large cities of the State separate offices are maintained. There is nothing new or experimental in this suggested consolidation. It is so obviously in harmony with modern methods that it is almost useless to investigate the experience of other States where the plan is universally commended and stands without an expressed criticism from either capital or labor. The departments involved are all rendering splendid service now, and this suggestion must not be accepted as the slightest criticism of the personnel. It is highly important, however, that every agency of government render its utmost with a view to bringing these two reciprocal elements of industrialism to a base of common understanding and public indorsement. It is the recommendation, therefore, that the industrial commission be created by legislative enactment, to consist of not less than three members appointed by the governor, and that this organization be given wide discretionary powers for the reasons which have already been advanced in this communication.

The same reasons advanced for the consolidation of the labor departments apply with equal force to the same arrangement in behalf of a department of agriculture. We have three distinct administrative subdivisions, namely, the State board of agriculture, the college of agriculture, and the experiment station. The first two are directed by boards the members of which are appointed by the governor. I have made personal investigation with respect to 25 agricultural activities in the State. Of these direct duplication ensues in 14 departments of the work, while triplication occurs in 11. Every one of the three departments is engaged in orchard, spraying and pruning demonstrations, farmers' institute work, the publication of bulletins, in many instances on the same subject. Lecture work independent of institutes and granges, exhibits at agricultural fairs, investigation of the cost of agricultural production, organization of farmers' clubs, corn shows, field meetings, and farm advice.

Very useful service has been rendered in behalf of the agricultural interests, but the present system can not be justified by any modern method of administration. Our labors have just begun in agricultural research work. Scientific investigation must play a large part, because the mysteries, possibilities, and utilities of nature are subjects to be developed. It touches the question of food and clothing, two very vital considerations, so important, in fact, that there is the highest call for efficient organization. Recommendation has already been made in compliance with the short ballot to abolish as elective the office of dairy and food commissioner. Under the present arrangement the dairy and food commissioner is devoting a large part of the energies of this splendidly conducted department in investigating the illegal sale of liquor. This will logically be transferred to the liquor-license commission, and the remaining operations of the dairy and food department should be taken over by the department of agriculture. In this connection the legislature will find, upon inquiry, that the laws with respect to food inspection and regulation are very inefficient. The dairy industry has shown development in every part of the country where increased inspection is brought to milk products. The police power of the State is a constitutional provision for the primary purposes of conserving the general welfare. The public health is certainly entitled to first consideration. There is no uniformity in the communities of the State in the matter of food regulation. Many places are without local laws on the subject of meat inspection, for instance; and in some cities, even where the provision by ordinance seems sufficient, the local authority is so remiss as to constitute a reproach on government. Every slaughtering and meat-packing house engaged in interstate traffic is subject to inspection by the Federal Government. The result is that these institutions, in their desire to escape loss from condemned animals, make the first selection from stockyards and farms. The meat slaughtered for purposes that do not constitute interstate traffic and which, it must be understood, is limited to consumption in the State, is procured from the herds that have been picked over. It is true both with respect to meat and milk, that the lowest quality, with its disease-producing possibilities, goes to the communities where the food regulations are lax. Ohio demands attention to the subject of human conservation, and the police power of the State lodged in the hands of a strong department of agriculture could be exercised for the protection of our citizenship. I therefore recommend the consolidation of the State board of agriculture, the Ohio experiment station, and the College of Agriculture, under what shall be known as the department of agriculture, the agricultural commission, or such other designation as the wisdom of the legislature might suggest. The College of Agriculture is a part of the State University and the dual relation of the college to both the university and the department of agriculture occasions the only real problems. However, the university at Columbus is a State institution conducted with funds appropriated by the State, and with the relation which is now being established as between the State government and the State University there is every belief that common interest is sure to prevent any conflict in administration.

This introduces the subject of coordinating the energies of the State government and the State University. Wisconsin has made its greatest progress because of this relation. Students whose services under experienced heads have been called into practical operation come back to the institution of learning with problems from the field, and the result has been an alert and progressive faculty. The advantage is so clearly mutual both in the development of Government and learning, and in the economy of public expense, that no one will deny the self-evident wisdom of the plan. To take issue with it one must predicate his position on the contention that research, experimentation, and education are not useful elements in the affairs of man or government.

There should be established a bureau of legislative research for the development of every subject vital to the State and the legislature, and a salary should be provided to make possible the employment of an expert. In other States the detail work of this department, under the direction of the chief, is performed in most part by students in the university and the bibliography of the subjects is developed in such thorough and systematic manner as to make the department an institution of enduring service and value to the State. The director should also be related to the department of political economy in the university, and be given the authority to employ an official draftsman during the session of the legislature for the use of its members. The bar of the country has given enthusiastic indorsement to this plan and wherever it has been installed it has saved confusion in administration and reduced the element of delay occasioned by legal tests on ultra technical grounds.

The subject of farm credits is claiming the attention of all civilized powers. They all recognize that the movement from the farm to the city continues in such increased proportion as to create a distinct and perplexing problem. At the conference of the governors held at Richmond, Va., Ambassador Myron T. Herrick, now located at the French capital, and an ex-governor of this State, made this observation:

"The drift of the population to the city has not yet been stayed. Over 10 per cent has been added to the ratio of urban population in the last two decades. In 1900 there was one farm for every 13.2 persons; in 1910 there was one farm for every 14.5 persons. On the average, therefore, each farm has to furnish food for more than one more person than in 1900. Under the circumstanses, it is not altogether surprising that in the last 20 years the price of cattle has ad-

vanced nearly 62 per cent, of hogs 96 per cent, of cotton 28 per cent, of wheat 67 per cent, of corn 200 per cent, and of potatoes 288 per cent, and that the prices of other farm products have steadily advanced."

Rural opportunity is the thing to be considered. Good roads and a modern common-school system will do much toward increasing the advantages of country life, but the fact remains that there must be more tillers of the soil. The question of farm credits in the opinion of experts on the subject must be solved in the first instance through State rather than national legislation. Farmers need two sorts of credit: Long-time credit for the purchase of land and the making of permanent improvements, and short-time credit for the operation of their property, purchase of stock, fertilizer, financing their crops, etc. In both of these respects facilities are very insufficient in the United States. It is the recommendation that your body provide for the selection of a special commission for the purpose of making an investigation with respect to the exact needs of Ohio farmers for credit and the credit facilities that are now afforded. There is such a lively interest taken in this subject that I am convinced the commission would serve without compensation. Ex-Governor Herrick has given his personal assurance that he will give every cooperation in the way of personal service and the contribution of such information as he has procured at home and abroad.

Additional regulation is also needed for the protection of breeding of live stock. Ohio is notoriously a dumping ground for diseased and unsound stock used for breeding purposes. It is also important that the fertilizer laws be strengthened and the farmer given better protection against adulteration in all fertilizing and spraying materials.

The Department of Health has asked for an increased appropriation of $25,000 to render more effective the combat against tuberculosis. It ought to be given. The agencies engaged in this work are being given every cooperation possible, governmental and otherwise, in every part of the world. Science has contributed much in reducing the mortality, but our work has scarcely begun. The relatively small appropriation which is asked to maintain for two years the annual expense of $3,000 necessary to investigate the subject of occupational diseases ought also to be allowed. Let me remind the legislature that $25,000 was appropriated by the State for the production of hog-cholera serum. The requested appropriation to produce antitoxin for diphtheria was not allowed. The economic loss from hog cholera in this State for the last year has been appalling. It has assumed almost the proportions of a disaster to many farmers and resulted in greatly increased prices for food supplies. Ample appropriation should not only be made for the production of hog-cholera serum, but a system should be created making it more available. However, this should not be done to the neglect of the child. He is also entitled to protection against the disease of diphtheria. The circumstance is an index to the legislative tendency of the day. As I have myself served for four years in the Federal legislative body this observation is not made in any invidious spirit.

The newly amended constitution gives to the State the right to adopt the minimum wage, and to pass laws for the general welfare of the employee. There should be a common understanding of this subject as developed by a survey of the wage question. I am convinced there should be no law passed until after this is accomplished, except to provide for obviously unjust conditions affecting the wages of women and children. The labor departments or the industrial commission, if it is established, could doubtless make this survey without adding to the public expense. It is a question of live concern, and I regret that the information is not at hand so that a legislative remedy might be applied without delay. It is recommended that your body pass a resolution empowering such agency as in your judgment seems best to make the investigation.

The State is paying in rentals over $50,000 a year for the reason that our public buildings are insufficient for the needs of the several State departments. This sum of money is ample to carry the interest charges on more than a million-dollar investment. For approximately this sum, the State could unquestionably provide its own property and insure better accommodations for the departments. I am mindful of the importance of guarding the finances of the State and keeping our operations within our revenues. But it is admittedly false economy to continue the rental system. Another thing to be considered is the rapidly appreciating value of business real estate in the vicinity of the capitol, where purchase inevitably must be made. It is suggested that the general assembly appoint a legislative committee to investigate the conditions and report on the expediency of acquiring property by condemnation for the purpose of this project.

The commission appointed by Gov. Harmon to codify all subjects which relate to the child has developed many interesting aspects, and I am convinced that its suggestions can profitably claim the most careful consideration of your body. The ablest juvenile officials of the State have responded in cooperative service in a very patriotic way, and the measure of information which has been adduced on child life will be of distinctive benefit to our people. The commission takes up the vital subject of the widows' relief bill, and while it has not unanimously agreed as to the desirability of such a law, it is conceded that should any be passed, it should provide:

"For the partial support of women whose husbands are dead or become permanently disabled for work by reasons of physical or mental infirmity, or whose husbands are prisoners, when such women are poor, and are the mothers of children under the age of 14 years, and such mothers and children as have a legal residence in any county of the State."

The order making an allowance shall not be effective for a longer period than six months, but, upon expiration, the time can be extended, provided the home has first been visited and conditions investigated. The child or children must be living with the mother. The allowance should be made only when in the absence of it the mother would be required to work regularly away from her home and children. The mother must be a proper person, morally, physically, and mentally, for the bringing up of the children. The purpose of such a law is to keep together families of widows and small children, that might otherwise be broken up, the belief being that it is cheaper to maintain these children in their homes than in public institutions, and that they are much better off with their mothers. The moral and humanitarian considerations make strong appeal to public favor. The great majority of juvenile judges believe the law should be passed, but that it should be a felony rather than a misdemeanor for any person to attempt to obtain an allowance for anyone not entitled to it. The State inspector of workshops and factories is enthusiastically in favor of the law. He reports that in certain cases he has investigated, where the child-labor law has been violated employment is rendered necessary by the absolute dependence of a widowed mother. In such instances, the growth of the child, physically, intellectually, and morally, is interfered with, and these are considerations which must be measured on a higher footing than the items of public expense. Under existing law, the father who consigns his children to the county children's home, because of his inability to maintain a satisfactory domestic arrangement, can not pay the county for this service. Instances have been reported where the parent has desired to do this, but there is no enabling statute. This one item would help to bear the expense of giving aid to dependent widows. The codifying commission, in its suggestion, has, with far-seeing vision, created apparently every safeguard. It may be true that the most perfect law it is possible to enact will have its abuses. Most laws have. I recommend this whole subject for the very careful consideration of your honorable body.

A thing to be avoided is the rapidly increasing expense in the cost of maintaining the militia. While this organizaton has its function and its maintenance in large degrees is made possible by the patriotic service of privates and officers who are devoted to military subjects, still it is scarcely conceivable that any necessity exists for such disbursements in our State as almost equal the total expense of two of the three constitutional branches of the government—the judicial and the legislative. One of the unfortunate tendencies of the time is toward excessive armament.

The moving-picture business is one of the marked evolutions of the day. Its growth and the countless thousands which attend the shows daily stagger the imagination. Without the restraint of governmental authority, abuses are apt to develop; in fact, I am not sure they have not already done so. The picture films should be censored and the police power of the State should be exercised in making it a State rather than a community regulation. The business has many useful functions, and under proper restrictions it can become a pleasurable and profitable recreation for the people. The youth is entitled to protection against improper preservations. Immoral pictures in public places, with apparent official sanction, can not but excite a bad influence. I recommend the passage of a law which will establish this regulation and assess against the business concerned sufficient fees to maintain the administrative machinery.

I join in the recommendations made by Gov. Harmon in relation to the following matters: The Perry Victory Centennial, the Panama Exposition, State supervision over private banks, and the power of special counsel from the attorney general's office to appear before grand juries.

JAMES M. COX.

JANUARY 14, 1913.

AGRICULTURE APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BURNHAM. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. BURNHAM, Mr. WARREN, and Mr. GORE conferees on the part of the Senate.

EIGHT-HOUR LAW.

The PRESIDENT pro tempore laid before the Senate the following concurrent resolution of the House of Representatives (H. Con. Res. 72), which was read:

Resolved by the House of Representatives (the Senate concurring), That the President is requested to return to the House of Representatives the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, and that the action of the Speaker of the House of Representatives and the President of the Senate in signing said enrolled bill be rescinded.

Mr. SHIVELY. I ask that the Senate concur in the resolution.

The resolution was concurred in.

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8275) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

That the House recede from its amendments numbered 3 and 5.

P. J. McCUMBER,
BENJAMIN F. SHIVELY,
HENRY E. BURNHAM,
Managers on the part of the Senate.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

The report was agreed to.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1 and 6.

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 4, and 5, and agree to the same.

P. J. McCUMBER,
HENRY E. BURNHAM,
BENJAMIN F. SHIVELY,
Managers on the part of the Senate.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHARLES E. FULLER,
Managers on the part of the House.

The report was agreed to.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8274) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 4, 6, and 7.

That the House recede from its amendments numbered 1, 2, 3, and 5, and agree to the same.

P. J. McCUMBER,
HENRY E. BURNHAM,
BENJAMIN F. SHIVELY,
Managers on the part of the Senate.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHARLES E. FULLER,
Managers on the part of the House,

The report was agreed to.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8314) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2.

That the House recede from its amendment numbered 3; and agree to the same.

P. J. McCUMBER,
HENRY E. BURNHAM,
BENJAMIN F. SHIVELY,
Managers on the part of the Senate.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHARLES E. FULLER,
Managers on the part of the House.

The report was agreed to.

COMMITTEES OF THE SENATE (S. DOC. NO. 1122).

Mr. BACON. Mr. President, I have had furnished me a very old Senate document, of which I presume this is probably the only copy to be found. It is, I think, of great value from a historical and practical standpoint. It is Miscellaneous Document No. 2, printed at a special session of Congress in 1863, and gives an exhaustive review of all the precedents of the Senate in regard to the appointment of its committees. It evidently required a great deal of labor to prepare, and I think it would be unfortunate if it should pass away without being reproduced. I therefore ask that it may be reprinted. I will not ask that it be printed as an ordinary Senate document, because in that case it would be distributed as specified in the rule; but I shall ask that it be printed for the use of the Senate, as it relates exclusively to matters in which the Senate is interested.

The PRESIDENT pro tempore. The Senator from Georgia asks that the document indicated by him be printed for the use of the Senate. Without objection, that order will be made.

PENSIONS AND INCREASE OF PENSIONS.

The PRESIDENT pro tempore. Morning business is closed.

Mr. McCUMBER. I move that the Senate proceed to the consideration of House bill 27475.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, which had been reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, on page 2, line 2, before the word "acting," to insert "late," so as to read:

The name of Emma L. Cole, widow of William C. Cole, late acting assistant surgeon, United States Army, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 2, line 10, after the word "Volunteer," to strike out "Infantry" and insert "Cavalry," so as to read:

The name of Julia A. Rouse, widow of Oliver H. P. Rouse, late of Company D, Eighteenth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 3, after line 6, to strike out:

The name of Elizabeth M. Rutherford, widow of George Rutherford, late of Company F, Second Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, after line 8, to strike out:

The name of Emma E. Kanzleiter, widow of Daniel Kanzleiter, late of Company E, One hundred and thirty-sixth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 6, line 11, before the words "per month," to strike out "$30" and insert "$24," so as to read:

The name of Gideon F. Denton, late of Company H, Seventh Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 6, line 15, before the words "per month," to strike out "$36" and insert "$30," so as to read:

The name of David W. Stafford, late of Company D, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 7, line 4, before the words "per month," to strike out "$24" and insert "$12," so as to read:

The name of Charles P. Harder, late of Company C, One hundred and eighty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The amendment was agreed to.

Mr. BRYAN. I inquire if we are proceeding now to dispose first of committee amendments?

The PRESIDENT pro tempore. The bill contains certain committee amendments, which are being acted upon as the bill is read. There is no agreement as to the consideration of amendments, and they may be offered from the floor at any time.

Mr. BRYAN. I move to strike out the lines from 1 to 4, on page 7.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 7, at the top of the page, it is proposed to strike out:

The name of Charles P. Harder, late of Company C, One hundred and eighty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

Mr. McCUMBER. I ask the Senator if he will not allow us to pass over that until I can get the report, and then we can recur to it?

Mr. BRYAN. I suggest to the Senator from North Dakota that we can act upon the committee amendments first and then go back, if that is satisfactory.

Mr. McCUMBER. Very well.

The reading of the bill was resumed.

The next amendment of the Committee on Pensions was, on page 7, after line 4, to strike out:

The name of Catherine M. Hazelton, widow of Frank B. Hazelton, late first lieutenant and adjutant, Twenty-seventh Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 7, line 18, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to read:

The name of Frederick Kinner, late of Company H, Fifty-fifth Regiment Kentucky Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 9, after line 12, to strike out:

The name of James K. Waltermire, late of Company I, Third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 9, after line 15 to strike out:

The name of Walter S. Reeder, late of Company C, Seventy-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 10, line 2, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to read:

The name of Senobio Cordova, late of Capt. Graydon's independent company of New Mexico Volunteer Mounted Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 14, after line 4, to strike out:

The name of Patrick L. Kennedy, late of Company F, Second Regiment Massachusetts Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 16, line 2, after the word "receiving," to insert: "*Provided*, That in the event of the death of Ira Cotterell, helpless and dependent child of said John Cotterell, the additional pension herein granted shall cease and determine," so as to read:

The name of Nancy A. Cotterell, widow of John Cotterell, late of Company H, One hundred and thirtieth Regiment Illinois Volunteer Infantry, and Company B, Seventy-seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Ira Cotterell, helpless and dependent child of said John Cotterell, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 16, after line 9, to strike out:

The name of Elizabeth O'Reiley, widow of Peter O'Reiley, late of Company H, Thirty-fifth Regiment New Jersey Volunter Infantry, and pay her a pension at the rate of 20 per month in lieu of that she is now receiving.

The amendment was agreed to.

Mr. BRYAN. So that the chairman of the committee may know the amendments I propose to offer, I now move to strike out lines 14 to 17, inclusive, on page 20.

The reading of the bill was resumed.

The next amendment of the Committee on Pensions was, on page 20, line 19, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to read:

The name of James David Rich, late of Company A, Second Regiment Tennessee Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 20, after line 21, to strike out:

The name of Charles Reynolds, late chaplain, Eighty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 22, line 9, after the name "Caroline," to strike out "Koch" and insert "Knarr," so as to read:

The name of Caroline Knarr, former widow of Jonathan Kennedy, late of Company H, One hundred and fourth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 22, line 16, before the words "per month," to strike out "$25" and insert "$24," so as to read:

The name of Frances M. Dille, widow of John B. Dille, late of Company K, Seventy-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, line 12, before the words "per month," to strike out "$25" and insert "$24," so as to read:

The name of Lizzie Dovener, widow of Robert G. Dovener, late assistant surgeon, Fifteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 25, line 16, after the words "per month," to strike out "in lieu of that she is now receiving," so as to read:

The name of Elizabeth J. Todd, former widow of Ephraim L. Webb, late of Company E, Forty-fourth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 27, after line 22, to strike out:

The name of Melvin J. Ringler, late of Company C, Sixty-fourth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 28, after line 6, to strike out:

The name of Tilla L. Eckard, widow of Calvin J. Eckard, late of Company B, Thirteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 29, line 23, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to read:

The name of David R. Edmonds, late of Company A, Thirty-fifth Regiment Kentucky Volunteer Mounted Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 30, after line 4, to strike out:

The name of Mary A. Missner, former widow of Mitchell Haynes, late of Company H, One hundred and second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 30, line 20, before the words "per month," to strike out "$25" and insert "$20," so as to read:

The name of Louise Taylor, widow of Charles C. Taylor, late of Company F, One hundred and seventy-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 33, line 7, before the words "per month," to strike out "$20" and insert "$12," so as to read:

The name of William H. Cummings, late of Company I, Twenty-fourth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 36, line 6, after the word "receiving," to insert "*Provided*, That in the event of the death of Jennie Dickinson, helpless and dependent child of said James D. Dickinson, the additional pension herein granted shall cease and determine," so as to read:

The name of Martha Dickinson, widow of James D. Dickinson, late of Company D, Seventeenth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Jennie Dickinson, helpless and dependent child of said James D. Dickinson, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 36, after line 10, to strike out:

The name of William T. Mills, late of Company E, Forty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 38, line 10, before the words "per month," to strike out "$24" and insert "$50," so as to read:

The name of Samuel A. Pearce, late of Company B, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 38, after line 10, to strike out:

The name of Fredericka Welfley, now Wurthner, former widow of Gottlieb Frederick Welfley, late of Company H, Sixteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 40, line 2, before the words "per month," to strike out "$25" and insert "$24," so as to read:

The name of Emily A. Kennedy, widow of Oliver H. S. Kennedy, late of Companies B and F, Fortieth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 40, line 4, before the word "widow," to insert "former," so as to read:

The name of Mary Gourno, now Earle, former widow of Louis Gourno, late of Company E, Sixty-fourth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 41, line 18, after the word "receiving," to insert "*Provided*, That in the event of the death of Roy L. Moffatt, helpless and dependent child of said Joseph L. Moffatt, the additional pension herein granted shall cease and determine," so as to read:

The name of Julia A. Moffatt, widow of Joseph L. Moffatt, late of Company I, Seventh Regiment United States Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Roy L. Moffatt, helpless and dependent child of said Joseph L. Moffatt, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 42, line 21, before the words "per month," to strike out "$40" and insert "$50," so as to read:

The name of Archibald McLain, late of Company C, Eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The PRESIDENT pro tempore. The items passed over temporarily will now be read.

The SECRETARY. The first item passed over is, on page 7, beginning with line 1, as follows:

The name of Charles P. Harder, late of Company C, One hundred and eighty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The PRESIDENT pro tempore. The Senator from Florida [Mr. BRYAN] moves to strike out those lines. The question is upon the Senator's motion.

Mr. McCUMBER. I call attention to the fact that there is an amendment there reducing the $24 to $12 a month.

Mr. BRYAN. The House committee, in reporting this omnibus bill, prepared a report, and its report with reference to the item now under consideration is as follows:

H. R. 9296. Charles P. Harder, aged 60 years, served as a drummer in Company C, One hundred and eighty-seventh Regiment Pennsylvania Infantry, from June 20, 1863, to January 9, 1864, and from April 14, 1864, to August 3, 1865, and is now a pensioner under the act of June 27, 1890, at $6 per month on account of rheumatism and resulting disease of heart. Address, Orville, Pa.

Medical examination, June 27, 1897, shows rheumatism, disease of heart, and piles.

Two physicians, May 17, 1911, have treated him for impaired vision, neuritis, rheumatism, indigestion, and is unable to follow his usual occupation.

Pensioner states that his income, including his pension, is about $125 a year.

An increase to $24 per month is recommended.

Upon a preliminary examination by the clerks in the office of the Senate Committee on Pensions the following notice was made of this item:

This man is pensioned at $6 per month under the act of June 27, 1890, and has not applied for increase at the bureau in over 13 years. Inasmuch as the rule requires that he must establish his title to and be granted the maximum rate under that act of June 27, 1890, before bringing his case to Congress, it does not appear that special legislation is warranted at this time in his behalf. He enlisted when only 10 years of age.

Rule I of the committee requires, as stated in this comment, that he must have pursued that course. The rule says, among other things:

No bill will be considered by this committee unless application for pension or increase of pension has first been made to the Bureau of Pensions, nor while the claim is pending in the bureau, except in cases where conclusive proof is presented that the claimant has no pensionable status under existing laws.

He has a pensionable status under existing law. Under existing law he can be allowed, if he has no specific disability, as high as $30 per month. He is on the pension roll; and here is what the rule says with reference to increase of pensions:

With reference to increase cases it will be required that the applicant shall have had his claim adjudicated at the bureau within a reasonable period of time prior to the presentation of the bill.

And, according to the report of the House committee, the last application, as I understand it—if the rather indefinite language as to the time of his medical examination can be construed as a date—was in 1897, nearly 16 years ago.

We have heard much about the rules of this committee. Yet here is a case that the majority of the Committee on Pensions recommend to the Senate with a favorable report, as to an individual whom the clerk of the committee says would not be entitled, and whom the rule of the committee says would not be entitled, to consideration under a special bill.

If this man can come in and have his pension granted, he understands perfectly well that the rule is not meant to or does not operate to his disadvantage; but every other soldier seeing and reading that rule—and the rules are printed for their guidance—will say, "Well, I have no right to get upon that roll under the rules of the committee." Those rules are liberal ones. Yet the committee of the House of Representatives, and in theory—in theory only, I admit—the House of Representatives itself passes a private bill for this man in spite of the rules of the committee of the Senate and the House. It is not only generous enough to waive its rules in his behalf, but is also generous enough to quadruple the pension of a boy who enlisted when he was 10 years old and saw the end of his service at the great age of 12!

If the Senate wants to pass that kind of a bill for a man who is now 60 years old, who was 10 years old when he went into the service, and who was 12 when he went out, who was only a drummer boy, and who can trace no injury to service, I have nothing further to say with reference to this item.

Mr. McCUMBER. This man enlisted, according to the records, when he was 13 years of age. He is 60 now. He enlisted in 1863. At that time, therefore, he must have been 13.

Mr. BRYAN. If the Senator will pardon me——

Mr. McCUMBER. I guess the Senator is right. He enlisted first as a drummer boy.

Mr. BRYAN. When he was 10.

Mr. McCUMBER. And he remained in the service something over two years.

Mr. BRYAN. He was 12 when he went out.

Mr. McCUMBER. Under the present law he would be entitled at the expiration of two years to a pension of $15 a month for his service. It is true that our rules require that he should first exhaust every right that he would have before the department.

Mr. BRYAN. Let me ask the Senator, if he will permit me, has he not done that?

Mr. McCUMBER. If the Senator will give me a chance, I was going to say it is true, also, that he has not done that; but this is a House bill. The House committee has the same rules. Its members evidently thought the circumstances were such as to justify departing somewhat from that rule, in view of the fact that in a very short time he would be entitled to $15 per month. The House passed the bill at $24 per month. The Senate cut it down to $12 per month, which is $3 less than he will be entitled to receive in less than two years. I think it really ought to pass at $12, but I am willing to take the sense of the Senate upon it.

The PRESIDENT pro tempore. The question is upon the amendment of the Senator from Florida [Mr. BRYAN]. [Putting the question.] The Chair is in doubt.

Mr. THOMAS. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. NELSON (when his name was called). I have a pair with the senior Senator from Georgia [Mr. BACON]. Not knowing how he would vote, I withhold my vote.

Mr. OVERMAN (when his name was called). I have a pair with the senior Senator from California [Mr. PERKINS], and therefore withhold my vote.

Mr. SIMMONS (when his name was called). I wish to inquire whether the Senator from Minnesota [Mr. CLAPP] has voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. SIMMONS. I have a general pair with that Senator, and withhold my vote.

Mr. WARREN (when his name was called). I have a general pair with the Senator from Louisiana [Mr. FOSTER]. I do not see him in the Chamber, and I withhold my vote.

Mr. WILLIAMS (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. PENROSE], who seems not to be present. I therefore withhold my vote.

The roll call was concluded.

Mr. CULLOM. I inquire whether the junior Senator from West Virginia [Mr. CHILTON] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. CULLOM. I have a general pair with him. I will transfer that pair to the Senator from South Dakota [Mr. GAMBLE], and vote "nay."

Mr. BRIGGS. I ask if the senior Senator from West Virginia [Mr. WATSON] has voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. BRIGGS. I have a general pair with that Senator, and therefore withhold my vote.

Mr. DILLINGHAM. I will inquire whether the senior Senator from South Carolina [Mr. TILLMAN] has voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. DILLINGHAM. I have a general pair with that Senator, which I transfer to the Senator from Rhode Island [Mr. LIPPITT], and vote. I vote "nay."

Mr. RICHARDSON. I inquire if the junior Senator from South Carolina [Mr. SMITH] has voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. RICHARDSON. Being paired with the junior Senator from South Carolina, I withhold my vote.

Mr. BRIGGS. As I announced previously, I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. I transfer that pair to the senior Senator from Nebraska [Mr. BROWN] and vote "nay."

The PRESIDENT pro tempore. The Chair is paired with the Senator from New York [Mr. O'GORMAN].

Mr. WARREN. I will transfer my pair with the Senator from Louisiana [Mr. FOSTER] so that that Senator will stand paired with the Senator from New Hampshire [Mr. BURNHAM]. I vote "nay."

Mr. RICHARDSON. I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Rhode Island [Mr. WETMORE] and vote "nay."

The result was announced—yeas 19, nays 29, as follows:

YEAS—19.

Ashurst	Gardner	Owen	Smith, Ga.
Bankhead	Gore	Percy	Swanson
Bryan	Kavanaugh	Pittman	Thomas
Culberson	Martin, Va.	Sheppard	Webb
Fletcher	Martine, N. J.	Smith, Ariz.	

NAYS—29.

Bourne	Crawford	Kenyon	Stephenson
Bradley	Cullom	La Follette	Stone
Brandegee	Cummins	McLean	Townsend
Briggs	Curtis	Oliver	Warren
Bristow	Dillingham	Page	Works
Burton	Gronna	Richardson	
Chamberlain	Jackson	Root	
Clark, Wyo.	Jones	Smoot	

NOT VOTING—47.

Bacon	Fall	McCumber	Shively
Borah	Foster	Myers	Simmons
Brady	Gallinger	Nelson	Smith, Md.
Brown	Gamble	Newlands	Smith, Mich.
Burnham	Guggenheim	O'Gorman	Smith, S. C.
Catron	Hitchcock	Overman	Sutherland
Chilton	Johnson, Me.	Paynter	Thornton
Clapp	Johnston, Ala.	Penrose	Tillman
Clarke, Ark.	Kern	Perkins	Watson
Crane	Lea	Poindexter	Wetmore
Dixon	Lippitt	Pomerene	Williams
du Pont	Lodge	Reed	

So Mr. BRYAN'S amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. BRYAN. Mr. President, I desire to make a statement before proceeding to the next amendment. I hope Senators will not ask for a yea-and-nay vote on any of these items which I shall move to strike out of the bill, for two reasons. In the first place, I am not trying needlessly to take up the time of the Senate nor to embarrass Senators or make them come from the important committees in which they are working to be present. I am perfectly willing to leave it to the judgment of the Chair on a viva voce vote.

There is another reason which will appeal to the Senator from Colorado [Mr. THOMAS] a little later, and that is that it is perfectly useless to do it. I want it understood that I am not in any degree undertaking to filibuster against this bill. I am upon the Committee on Pensions, and I propose to move to strike out of the bill some of the items which violate the rules of the committee. The Senate has placed itself upon record as willing to do that, so there is no use to have it repeated on every motion.

Now, I ask, and I want to get it into as close juxtaposition with the vote of the Senate as I can, that rule 1 of the Committee on Pensions be inserted in the RECORD at this point.

The PRESIDENT pro tempore. Without objection, it will be inserted.

The matter referred to is as follows:

RULE 1. No bill will be considered by this committee unless application for pension or increase of pension has first been made to the Bureau of Pensions nor while the claim is pending in the bureau, except in cases where conclusive proof is presented that the claimant has no pensionable status under existing laws. With reference to increase cases it will be required that the applicant shall have had his claim adjudicated at the bureau within a reasonable period of time prior to the presentation of the bill. It has been frequently noted that applicants ignore the bureau and apply direct to Congress where no effort has been made through the regular channels for a period of from 5 to 10 years and more. The committee will give no consideration to such cases but will require applicants to make claim for increase at the bureau and have their rights adjudicated there.

Mr. BRYAN. I move to strike out lines 14 to 17, inclusive, on page 20 of the bill.

The PRESIDENT pro tempore. The Senator from Florida moves to strike out certain lines which will be read.

The SECRETARY. On page 20, strike out lines 14 to 17, inclusive, in the following words:

The name Izanna J. Kemp, widow of George H. Kemp, late of Company E, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

Mr. BRYAN. I send to the desk the report of the House committee upon this item and ask that the Secretary may read it.

The PRESIDENT pro tempore. Without objection the Secretary will read as requested.

The Secretary read from House Report No. 1278 as follows:

H. R. 19731. Izanna J. Kemp, aged 73 years, is the widow of George H. Kemp, who served as a private in Company E, Fourth Regiment Massachusetts Heavy Artillery, from August 20, 1864, to June 17, 1865, and on U. S. S. *Somoma*, etc., August 13, 1862, to June 25, 1863, and on U. S. S. *Ohio* and *Minnesota*, April 23, 1861, to September 9, 1861, when he deserted. Total faithful service, 1 year 8 months.

Sailor was pensioned under act of June 27, 1890, at $12, and died November 12, 1900. The pension accrued at his death was paid to this applicant, whom he married December 1, 1858.

A pension was denied her because when she applied it was discovered that in a prior service he had deserted. She applied a second time, claiming the benefit of the joint resolution of July 1, 1902, but was again denied on the ground that the bounty received for his last enlistment was greater than that which he would have received had he faithfully performed his first contract of service.

Dr. G. F. Martin, December 4, 1911, says she is too weak and feeble to work or earn any part of her living.

Neighbors testify that she owns no property or income; that she was supported by her son until he died recently, and now she tries to assist in housework, and, owing to her advanced years, can not do but little housework.

Since soldier had faithful services of 1 year and 8 months and applicant was his wife prior to the Civil War, and is quite old and penniless, an allowance of $12 a month is advised.

Mr. BRYAN. Upon that item the force which assists the Senate committee in its labors upon the great number of private pension bills that make their way into Congress at every session, and who have had to consider during the Sixty-second Congress, as I understand it, about 15,000 private pension bills, makes the following note with reference to this item:

Izanna J. Kemp. In this case the soldier husband was a deserter from his first service, although he had one year and eight months faithful service.

Widow is poor and needy. But the Senate committee has never recommended granting pensions except for faithful service.

If there are any extenuating circumstances as to his desertion, a bill to correct that record would give the widow a pension.

Yet, Mr. President, the Senate committee to-day recommends the giving of a pension to the widow of a man who has achieved the double distinction of being a deserter and a bounty jumper, according to the report of both the Senate and House committees. The record that he made crooked on the field of battle in time of war the Congress of the United States in time of peace makes straight for him in the face of legislation that protected a deserter who returned within a reasonable time of service, in the face of a joint resolution of 1902 which provided that if he got an honorable discharge from a subsequent contract of service it should operate to be an honorable discharge from a prior contract of service.

Yet the committee of the House and the committee of the Senate urge upon their respective bodies the passage of this bill. When he got an opportunity he deserted. Oh, but he came back into the Army, they say. Yes; he came back for a bounty. That is patriotism. In these latter days we do not measure patriotism by the old standard that the Government which protects its citizen in time of peace has the absolute right to demand his service in time of war. But you by this kind of

legislation invite him to come in although he deserted, because you think, well, it may be that at one time he was loyal. The Senate of the United States, I presume, will join the majority of the committee in providing that not only a deserter but a man who went back for money into the Army of the United States should be so distinguished and separated and isolated and placed above the great body of the loyal men of the Union Army who are not here besieging Congress to grant them any peculiar privileges, but are satisfied to receive only the pensions that come to them under the general legislation of Congress.

That is all I care to say. I think it is my duty to say that much, and I leave it for the Senate to retain the item in the bill if it shall so desire.

Mr. McCUMBER. Mr. President, had this been a pension for the soldier himself I have an idea that probably the committee would not have granted the pension. But the facts were discussed before the Committee on Pensions, and the committee undoubtedly focused their attention upon the condition of the widow rather than upon the fact that a bounty had been received by the husband at the time of one of his enlistments.

I will state the facts, and I want the Senate to look at it as the majority of the committee looked at it.

This man had a service of one year and eight months—nearly two years of service—during the war. This woman was his wife during that service of about two years. She is now 73 years of age; she attempts to make a living by trying to do housework; she is sick and feeble, and has no money whatever. There is a widow, in my opinion, who is drawing a pension and has been voted one where the conditions were far less justifiable than in this woman's case. I repeat, she is a woman 73 years old, and in her condition a pension of $12 is a small pittance. While her son was living and was able to take care of her she made no attempt to secure a pension. After she learned that there had been a bounty paid to her husband, after her son's death, and having to rely on herself, with no one to support her, and being 73 years of age, the committee, or a majority of the committee—and I have here on this floor to represent the view of the majority of that committee—concluded that because of that service and because of her destitute condition and her age she ought to be allowed $12 per month. I speak only the views of the majority of the committee and the basis on which they allowed the pension. I am willing to take the sense of the Senate upon it.

Mr. BRYAN. Mr. President, just a word. The clerk of the committee was right. If there was any question about this man being a deserter, he had a right to have that shown. The way to do that is to refer it, to have his military record corrected, or to have his crooked record straightened; but that would do no good. There is no question about his being a deserter; there is no question that he could not come in. Even under the liberal provisions of the general law this widow could not get upon that roll unless the Senate should waive that and waive the fact that he went back into the service for pay.

The Senator from North Dakota [Mr. McCUMBER] bases, as he has to base, this claim upon what? Upon the fact that the widow is old and poor. Mr. President, that shows the vice and the evil of this special pension legislation. I have stated before, and I now repeat, that it would be much better if Congress would simply enact as a law the rules of the Committee on Pensions and send them down to the Pension Bureau to be administered. Why? Because they would follow the rules; they would not violate them, as the Senate did a minute ago and in the case of the previous amendment which I offered. They would not yield to the temptation to give a pension as an act of charity upon the part of the Government to every old or needy person who applied.

Mr. President, I have as much sympathy, I hope, as has the Senator from North Dakota with the old and the needy; but I say that we are by this legislation establishing a precedent which will come back to plague this country in the near future. The United States pays more money for pensions than all the balance of the civilized world put together, and that, too, half a century after the war is over. Other countries pay pensions because of injuries received in battle, and no one needs special legislation for that. I began the other day to comment upon a bill that was introduced for the "Old Age Home Guard of the United States Army."

Senators smiled at that; Senators thought that was a wild dream of some irresponsible person. That bill was framed upon the theory that we in later days are not granting war pensions, but that we are selecting simply a class, and that if a poor widow 73 years old, needing help from somebody, simply because of that was put upon the pension roll, there is no reason on earth why every other poor person under like circumstances should not also be placed there.

Who was behind the bill to which I referred a few days ago? In the Denver convention, which met in 1908, of the American Federation of Labor, a committee was appointed to report back to the next annual convention a form of bill for old-age pensions. They were also authorized and required to take legal advice. They came back to the Toronto convention, in 1909, and approved the bill to which I referred, but which I did not then have time to explain.

It is true that those who enlisted in the Civil War, as compared to the widows and dependents, are in the proportion of only 5 to 4. They are dying off rapidly. There is now pending—and I understand it will be pressed before adjournment here—legislation designed to give pensions to the widows of the veterans of the Spanish-American War and to remove any restrictions in regard to the date of marriage as to widows of veterans of the Civil War. It will not be long—it will not be two years—before the noncombatants will outnumber those upon the pension roll designated as having been enlisted in the Civil War.

There are not 25 per cent of those who enlisted in the War between the States upon the pension rolls to-day. Less than one year ago Mr. Gardner, formerly a Representative from Michigan, said that most of the old veterans of the war were gone, and that the 600,000 or 800,000 people who enlisted at the close of the war, and who did not even get the polish off their shoes, formed the great majority of those now upon the pension roll. The number of those on the pension roll on account of the Spanish-American War is 29,000——

Mr. FLETCHER. Mr. President, may I interrupt my colleague?

The PRESIDENT pro tempore. Does the Senator from Florida yield to his colleague?

Mr. BRYAN. Certainly.

Mr. FLETCHER. I want to get clearly in my mind just the meaning of the statement that not 25 per cent of those who enlisted in the war were on the pension roll. I want to ask the Senator if he means that not 25 per cent of those on the pension roll ever enlisted in the war, or does he mean that not 25 per cent of those who enlisted are on the pension roll?

Mr. BRYAN. Not 25 per cent of those who enlisted. There were over 2,000,000 enlistments in the Civil War, and there are less than half a million now on the pension roll, although the pension roll itself numbers about 900,000 names. There are on the pension roll because of the War with Spain, in round numbers, 29,000 pensioners.

In the battle of Santiago there were about 15,000 soldiers engaged. They were all of the Regular Army, except the Rough Riders, and the Rough Riders only numbered 557; but you have now upon the pension roll 29,000 pensioners of the Spanish-American War, with 7,000 applications pending, and by general legislation and special legislation we increase it from time to time.

The yea-and-nay vote, taken a few minutes ago, showed that the rules relating to pensions amounted to nothing. There is but one rule, and that is to pay a pension if it is asked for.

The bill that came in here, to which I have referred, had back of it the American Federation of Labor. I think it is a great mistake; but I think that those people have as much right to be put upon the pension roll as the women who happened to marry men who enlisted in a war. If the Congress of the United States can not resist the temptation to grant whatever money is asked, if the pension roll in the two years that I have had the honor to serve in this body has jumped from $150,000,000 to $180,000,000, and if you are going to pass before Congress adjourns two more bills that will bring the total up to $190,000,000, I predict that before 1914 we will spend $200,000,000 for the pension roll, and that it will be impossible to resist the 18,000,000 laboring men who are asking to be put upon that roll.

There will be 1,250,000 of them entitled to be so placed, as the proposition is presented.

The Senate acted upon a measure this week. It went out upon a point of order, but what would you have done if you had had a chance to vote upon it—to pension civil employees of the Government in the postal service. It was said that it would not cost much; that this class was small in number; but, Mr. President, there are 400,000 people in the civil service, and to pension them would add about $40,000,000 a year to the expenditures of the Government.

So the advocates of the Crago bill say that it will only cost two and a half millions to put the widows of Spanish-American War soldiers on the pension roll now; but those men have studied history; they know that that was the way the pensioning of the widows of the Civil War was started; but these men live in a much faster age, and they are getting upon the roll quicker.

There were 400,000 enlistments in the War with Spain, and we will have more pensions if we listen to the plea of the Senator from North Dakota that this woman is old and needy, until finally some genius will propose to provide pensions for the men who have been in the public service, and perhaps, after a while, there will be pensions for Members of Congress. In Great Britain they have pensions for those who hold office when the office is abolished. We are getting along faster than England ever did, and some genius will propose to provide a pension for a man who gets beaten for office. The sum total of the whole thing will be that every man will get a pension. Who is going to pay them? I do not know. We will be lifting ourselves by our boot straps. Two-thirds of the money that comes to the customhouses of this country to-day is spent in the payment of pensions, with less than a half million men on the rolls who ever smelled gunpowder.

Oh, Mr. President, simply because—and that is the only excuse—this woman is old and needy, are we to place her upon the pension rolls? If so, you can not resist the demands that will be placed before Congress by the 1,250,000 decrepit, dependent laboring people, backed by the great American Federation of Labor. You will not resist the demands of the 400,000 civil-service employees. I think the Senator from Iowa [Mr. CUMMINS] recognizes that the only way to get away from that is to provide a retirement plan and make the employees contribute to it.

It does not make much difference to me; it does not make any difference whether you pay a pension to this woman or not; but it is not in accordance with the rules of the committee. It is in the teeth of every requirement of the statute. We are to pay her a pension because she is poor, because the committee has had compassion upon her, and, in addition to her poverty, she had a husband who was both a deserter and a bounty jumper. If the Senate wants to do that, well and good; but I do not think I would be doing my duty if I should sit silent as a member of that committee without calling attention to the fact that in a few items we are violating the rules of the committee and violating the statutes we have solemnly passed, and are doing it upon no theory at all except that under the system that prevails if a constituent has enough influence or can get close enough to or can get acquainted with the Representative from his district, out of that acquaintanceship grows a private pension bill. Members of Congress, I understand, have the privilege of securing consideration for so many bills, not upon merit—I do not mean to say they are not passed upon their merits, or such merit as this case displays, or such merit as is involved in the case of the 10-year-old soldier boy to whom we granted a pension a few moments ago; but outside of that they have no merit.

Mr. GORE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Oklahoma?

Mr. BRYAN. Certainly.

Mr. GORE. I desire to ask the Senator from Florida if he does not think that the present pension policy is a wise policy on the part of those who desire to create a necessity for high taxes and a necessity for protective duties?

Mr. BRYAN. I do not believe, Mr. President, that, rich as this country is, it can afford to pursue this policy much further. I think the time has come in this country for men from all sections to say that we have given and given until we have about used up the immense resources of this great Government, and we will just have to disappoint some of our friends who have enlisted for military service.

I am very glad somebody has introduced a bill to pension the veterans of the Spanish-American War, because while I do not feel that I have any prejudice against the veterans in the Union Army of the Civil War, certainly nobody can charge with fairness that I would be prejudiced against many of my own constituents, men who enlisted in the War with Spain, but never got to Cuba, and who, yielding to this Nation-wide demand to get upon the pay roll of the Government, are urging legislation for the widows of the Spanish-American War veterans. I know opposition to it is unpopular. I know the camps of the veterans have petitioned us to vote for this bill, but I do not believe that all the patriotism of men is gone. I should like once more to have it felt by the young men of this country that the Government does not owe them a living.

I rather admire the spirit of independence, the spirit for which this Government has stood, that it is no part of the business of the Government to provide a man a living, but to give him a chance equal with everybody else. I rather like the sentiment, "Look every man in the eye and tell him to go about his own business." He is an independent, free American citizen, and not dependent upon the charity of the Government which protects his life and property.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Oklahoma?

Mr. BRYAN. Certainly.

Mr. OWEN. I only rose to suggest to the Senator from Florida that this "widespread demand" for enlarging the pension list is not in reality a widespread demand from the people of the United States. It is a demand of individuals organized together and banded together for the purpose of promoting the interests of individuals by putting them on the pension list. I took the vote of Oklahoma audiences, one after another during the last year, with regard to the proposed blanket extension of pensions, and the people of that State were almost unanimously against it. I will say easily 99 out of 100 citizens were against it, and I am sure 99 out of 100 of the citizens of the United States are against this extravagant policy, which seems to know no limit and no ending.

Mr. BRYAN. Mr. President, taking the question in its large sense, I believe the statement of the Senator from Oklahoma is accurate. The trouble is that men organize for the old soldiers.

Mr. OWEN. It is the pension attorneys.

Mr. BRYAN. These men who went into the war without reward or the hope thereof, when the war was over went back to build names for themselves in times of peace. But there are organizations, and the people are not active in resistance. They rather sympathize with the desire of anybody to get along in life easily. Another trouble is, the people do not realize that they are paying the taxes collected in an indirect way. But the organizations know their business.

Mr. OWEN. They do.

Mr. BRYAN. I want to read, right here, a colloquy that occurred in the Committee on Pensions not long ago when the colleague of the Senator who last interrupted me, the senior Senator from Oklahoma [Mr. GORE] inquired of Mr. McElroy as I shall read. I beg to assure Senators that I shall close my remarks very shortly. I have taken up a vast deal more time than I intended to consume; but in answer to the Senator's question I will read extracts from this hearing.

This gentleman was careful to let the committee understand just exactly who he is:

> I presume you gentlemen all understand that I am the editor of the National Tribune, and I am talking to these men all of the time.

The National Tribune is the official organ of the Grand Army of the Republic.

Then he said in another place:

> Aside from that, I want to reiterate that it is grossly immoral and a danger to public morals to have the Government of the United States say that one marriage can be different in a way from another marriage.

He is an expert on what it takes to constitute morality. So the senior Senator from Oklahoma, in his innocence, asked these questions:

> Senator GORE. Colonel, is it your opinion that these pensioners ought to support the political party that grants them pensions?
> Mr. MCELROY. No.
> Senator GORE. You were at the head of the pension organization in the late campaign, were you not?
> Mr. MCELROY. No; I was not.
> Senator GORE. Did you not write letters to the veterans stating that you had been placed in charge?
> Mr. MCELROY. I wrote letters as a Republican.
> Senator GORE. Did you not state that you had been placed in charge?
> Mr. MCELROY. Of what?
> Senator GORE. Of that bureau—the organization of the old soldiers—for the campaign committee?
> Mr. MCELROY. Yes; I stated that I was placed in charge of the veteran wing, as a veteran, talking to veterans as a Republican veteran and writing to veterans. I wrote to them and told them that I thought it was good policy for them to support the Republican Party.
> Senator GORE. That is the point. You think they ought to support the party that grants the pension?
> Mr. MCELROY. Certainly; I am a Republican.
> Senator GORE. Did you write to the commandants of the camps telling them to go through the editorials of papers that were not supporting Mr. Wilson and to get editorials that were specially mean and harsh against Mr. Wilson?
> Mr. MCELROY. Yes; yes. I think that is perfectly legitimate politically. I wrote to comrades. I did not write to the commanders of the camps. I wrote to comrades with whom I am in correspondence.
> Senator GORE. Do you think that is good pension ethics?
> Mr. MCELROY. Yes; I think it is good political ethics.
> Senator GORE. All right. I just wanted to get your standard and ideals about it. That is all.

He will support any party that will give him what he wants. I do not mean to say, because I know it is not true, that one party will be less liberal to these men than another party. My opinion has been that no party has had the determination and the sense of justice to call a halt.

So, Mr. President, I move to strike out this item. The fact that this woman is old and poor ought not, according to any

standard of morals or ethics or justice, to entitle her to a place upon the pension roll, or entitle her to be supported by the Government.

The PRESIDENT pro tempore. The question is upon the amendment offered by the Senator from Florida [Mr. BRYAN].

The amendment was rejected.

Mr. BRYAN. Mr. President, I move to strike out lines 11 to 14, inclusive, on page 27.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 27, it is proposed to strike out all of lines 11, 12, 13, and 14, which read as follows:

The name of Mary J. Weddel, helpless and dependent child of William P. Weddel, late of Company A, Twelfth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. BRYAN. Mr. President, I ask that the Secretary read from the report the item with reference to Mary J. Weddel on page 5.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

Mr. McCUMBER. What page is it?

The SECRETARY. Page 59, at the top of House report 1278:

H. R. 23708. Mary J. Weddel, aged 60 years, is the helpless and dependent child of William P. Weddel, who served as a private in Company A, Twelfth Regiment Michigan Volunteer Infantry, from March 16, 1865, to February 15, 1866 (11 months). Address, Olivet, Mich.

Soldier was pensioned under the general law at $30 by reason of bronchitis and resulting phthisis pulmonalis. He died September 5, 1886. He and the mother of applicant were married April 8, 1849; she died August 11, 1901. She had been pensioned under the general law at $12 from date of soldier's death.

No one now pensioned on above service. This applicant was born May 18, 1852.

Dr. A. H. Burleson, August 20, 1912, says applicant is a permanent cripple, due to dislocation of hip, the ball of the joint being several inches out of place; she also has occasional attacks of pleurisy, such attacks being brought on by work; he believes applicant unable to do any kind of work.

William L. Emerson testifies that he has known her since before the Civil War; that in the early sixties she was injured by falling off a load of wood, dislocating her hip. The hip was not properly set or attended to, and as a result she became a confirmed cripple, and whenever she attempts to work she has pleurisy of the side.

Other testimony shows her to be the legitimate child of soldier and Nancy J. Weddel; that she never married; that she can not work, being a cripple and suffering from chronic pleurisy; that she has no property except a small house and lot; that there is no one to contribute to her support.

The county assessor certifies that applicant's property is assessed at $1,200; further, it is mortgaged, but he knows not the amount.

All the village officials have united in a petition asking that she be pensioned and indorsing her application as a true statement.

A rate of $12 a month may be allowed.

Mr. BRYAN. Mr. President. I call the attention of the Senate to the report prepared in the Senate committee:

Mary J. Weddel. In this case it is proposed to pension a 60-year-old helpless child of a soldier. The child was born before the services of the soldier. There is no evidence to show that she was helpless prior to attaining the age of 16 years.

The statute allows children who are dependent or helpless before they reach that age to be pensioned. There is no provision of law to authorize a pension after that time; so this bill confessedly is in the teeth of the law.

I read further:

It is true she is now an old woman and helpless and disabled, largely on account of age; but if pensions are to be granted to children of a soldier who become helpless through the infirmities of age pensions on account of the Civil War will continue for a hundred years. Therefore the item should be stricken from the bill.

I did not write that. That was written by the clerk of the Committee on Pensions, employed to state the facts. He stated the facts; and under the facts this person is not entitled to this pension either by any rule of the committee or by any law, but it is in the face of the law we have made.

If we make fish of one and fowl of another, and if we pension this woman because she is poor and 60 years old, I want to know why it is that the demand of those who advocate an old-age pension can not lay equal claim not only to the consideration but to the approval by Congress of their demands?

It is useless to urge this. My sole purpose is to make the Senate understand that it is violating its own rule; that it is violating the law. I know it will be passed.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from Florida [Mr. BRYAN].

The amendment was rejected.

Mr. BRYAN. The Senator from Nebraska [Mr. HITCHCOCK] asks me why I am making the fight. I have had more experience in this business than the distinguished Senator from Nebraska. I know what will happen. We have a case here where the Senate violated the rule, admittedly so, in defiance of the facts. Nobody disputes that. It is pure charity; and you are inviting anybody in this country to come in and get an organization behind him and demand a pension.

Mr. HITCHCOCK. It is not because it is charity. I think the strongest objection is that it is favoritism, rank favoritism. A rule is adopted and applied to some, and others are exempted from its operation.

Mr. BRYAN. If the Senator from Nebraska wants to test it, let him try it. I know what will happen.

I move to strike out the paragraph from lines 19 to 22, inclusive, on page 28.

The PRESIDENT pro tempore. The Senator from Florida moves to strike from the bill what will be read.

The SECRETARY. On page 28, beginning in line 19, strike out the following item:

The name of Mary F. Hess, former widow of Thomas K. Hess, late of Company F, Thirty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. BRYAN. I send to the desk and ask that the Secretary may read the report upon this item, beginning at the bottom of page 61.

The PRESIDENT pro tempore. Without objection the Secretary will read as requested.

The Secretary, reading from page 61 of House Report 1278:

H. R. 24047. Mary F. Hess, aged 66 years, is the former widow of Thomas K. Hess, who served as a private in Company F, Thirty-second Regiment Ohio Infantry, from August 15, 1861, to June 25, 1862 (10 months).

Soldier was pensioned under the general law at $15 for gunshot wounds of both thighs; he died June 22, 1873. He and applicant were married June 25, 1868. She, with one child, was pensioned under the general law at $8 and $2. February 17, 1875, date of her remarriage to one Zeenos Shaffer, from whom divorced January term, 1880, and alowed to resume use of former name.

Mr. BRYAN. The report of the Senate committee on the pending omnibus bill contains the following:

H. R. 24047. Mary F. Hess, aged 66 years, is the former widow of Thomas K. Hess, who served as a private in Company F, Thirty-second Regiment Ohio Infantry, from August 15, 1861, to June 25, 1862 (10 months).

Soldier was pensioned under the general law at $15 for gunshot wounds of both thighs; he died June 22, 1873. He and applicant were married June 25, 1868. She, with one child, was pensioned under the general law at $8 and $2. February 17, 1875, date of her remarriage to one Zeenos Shaffer, from whom divorced January term, 1880, and allowed to resume use of former name.

Dr. A. W. Bice, a specialist in diseases of the eye, testifies that without well-fitted glasses she is unable to see well enough to work, and that by reason of her poor health and age she is unable to do much work. It is further shown she has no real estate, personal property, except a few household goods valued at $25, no income, or resources of any kind.

Precedents allow a rate of $12 a month.

I read from rule 8 of the rules of the committee:

RULE 8. Consideration will not be given to any bill proposing to grant a pension to a widow who has remarried since the death of her soldier husband, even though she is again a widow, or has been divorced from her second husband, unless she was the wife of the soldier during the time of his service.

Oh, unanimous consent can always be had to suspend the rules of the Committee on Pensions. But I want the country to know that they are making fish of one and fowl of another. You say publicly by your rules that this class of widows are not entitled to pensions, but there is a mental reservation that if they can come in and say that they are poor, that they are 50 years old or 60 years old or 45 years old, the rule will not be enforced against them if, even after the war, they happen to have had the good luck to marry a man who had enlisted.

Mr. McCUMBER. Mr. President, it is probably proper for me to say in justification of the committee that this is a House bill. It came here from the House. In looking over the bill, my committee clerk made a note of all the facts suggested by the Senator from Florida. The committee in its judgment by a majority vote decided that the item ought to stay in the bill.

I presume the committee decided it, Mr. President, upon these grounds: First, that while this woman technically could not have been the widow of the soldier her long life was as the wife of this soldier, and he died from injuries incurred in the service. Afterwards she married, when she was well along in years, probably for a home. She made a mistake and left her husband after a short time, obtaining a divorce, and resumed her other name. The committee overlooked this second marriage, under the circumstances. I am willing to submit the question to the Senate.

Mr. BRISTOW. Mr. President, I am somewhat interested in this case. Do I understand that this is a widow who was married to a soldier and the soldier died and she afterwards remarried, and this overlooks the remarriage and pensions her because her first husband was a soldier?

Mr. DU PONT. That is the case.

Mr. BRISTOW. I want to know why the committee will bring this report in on one bill and turn it down in another. I

have an exactly similar case from my own State, and the Committee on Pensions refused to grant the pension.

Mr. DU PONT. Mr. President, I agree to the Senator's proposition. I think when we have a rule it ought to be observed. The excuses for making this exception to the rule are sickness and destitution, but in the cases of others who are turned down under the rule is there not also equal ill health and equal destitution? But the fact is that all the cases presented to the committee are cases in which the people are old and probably needy and in want. Such being the case, I believe that a citizen of one State should not be allowed to have a pension in violation of the rule and a citizen of another State be denied a pension because of the rule.

In my own State, because of the rule, there have been large classes of people denied the benefits of the pension law. The soldiers of the Fifth and Sixth Delaware Volunteers have been denied any participation in the benefits of the present pension law, and there are many widows of these soldiers in suffering and in want. Why should not the case of these people be considered if a violation of the rule in the case of other people is to be given consideration? I think they are entitled to the same justice and equity.

Mr. BRYAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Florida?

Mr. BRISTOW. I do.

Mr. BRYAN. Does not the Senator see it is inevitable that if you establish rules for your guidance and do not abide by those rules, injustice and favoritism are bound to be shown? Does not the Senator know that that is bound to be true? I have simply pointed out four or five instances where under the rules of the committee that is the case.

Mr. BRISTOW. The inquiry that I was making was whether this woman was the wife of a soldier who served in the Army at the time of his service. As I understand the rule, if the widow was the wife of a soldier at the time he served——

Mr. BRYAN. The Senator is mistaken. She married him after his service, several years afterwards, according to the data collected.

Mr. BRISTOW. So she was not the wife at the time of the service of the soldier in the Army?

Mr. BRYAN. According to this report she was not.

Mr. BRISTOW. She married him afterwards?

Mr. BRYAN. Yes, sir.

Mr. BRISTOW. That is exactly the case of a very worthy woman who lives in my home county, who is as poor as anybody and has to be supported by her friends. She had a second unfortunate marriage. I took the matter up with the committee personally, and it was refused upon the ground that such exceptions were never made, and I am amazed to find exceptions of that kind in this bill. I want to know if there is a rule for one Senator in regard to widows of that kind that is not applied to others.

Mr. McCUMBER. Mr. President, the principal offender in destroying the rules of the committee has been the Senate here, and the two Senators who have spoken have been as conspicuous as anyone else I know of in turning down the rules of the committee.

The chairman has endeavored in all instances to hold the committee to stringent rules, and we have had two or three of them turned down within the last few days. We had one turned down for the benefit of the Senator from Delaware [Mr. DU PONT]. The committee provides that under no circumstances will we ever grant a widow over $50 a month, and the pension was raised to $75 or $100 a month; and my good friend from Florida [Mr. BRYAN] joined with a majority in allowing that amount, clearly, Mr. President, against the rules of the committee, clearly against the efforts of the chairman of that committee to hold to the rule. When he could not hold the committee down to that rule he has tried to hold them just as closely as it is possible to the rules of the Senate. The House, of course, may not have the same rules. They are governed by their own set of rules, and they may see fit to set aside whatever rules they may have in particular cases.

Mr. DU PONT. Mr. President, I simply wish to say that I am sure the Senator from North Dakota does not wish to make a misstatement in reference to the bill granting a pension to Mrs. Hawkins. The statement, as I understood it, was that she received a pension greater than $50 a month, in violation of the rule of the committee. That is a complete error. The pension granted in the bill that passed yesterday was only $50 a month.

Mr. McCUMBER. My attention was directed in another direction and I did not hear the remark of the Senator from Delaware.

Mr. DU PONT. I will repeat it. I said that I am sure the Senator from North Dakota does not wish to make a misstatement in reference to the bill pensioning Mrs. Hawkins.

Mr. McCUMBER. I am speaking of the bill pensioning Mrs. Porter.

Mr. DU PONT. I thought the Senator spoke of the bill pensioning Mrs. Hawkins.

Mr. McCUMBER. I did not mention any name, but the bill I had in mind was that pensioning Mrs. Porter. The principle is the same.

Mr. DU PONT. Mrs. Porter receives only $50 a month.

Mr. McCUMBER. I think she receives $75.

Mr. BRYAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Florida?

Mr. McCUMBER. I yield to the Senator from Florida.

Mr. BRYAN. I desire to ask the Senator two questions. Is it not true that the House committee has the same rules as the Senate Committee on Pensions?

Mr. McCUMBER. We have had, but I think they have rather modified their rules during the last year. I judge that more particularly from the kind of bills they are sending over here. I know they are not drawing the line as strictly as they did before. I would have to know what their rules are before I could answer the Senator.

Mr. BRYAN. Is not the Senator familiar with the rules of the House Committee on Pensions?

Mr. McCUMBER. I am familiar with the fact that we adopted joint rules some time ago, but I do not know whether the present committee of the House still adheres to the old joint rules.

Mr. BRYAN. I wish to ask the Senator one more question. Do these rules anywhere say how much we can devote to private pensions? I want to say to the Senator—granting that there is a rule prohibiting a pension above $50 to a widow—I think I have had a very bad example set me as to the rule. Really, I had understood from my experience on the committee that the rules are not enforced, and if I fell by the wayside in voting for what I conceive to be a meritorious bill for the widow of Fitz John Porter, I can only plead as my excuse that it was my only offense. I think the Senator will bear me out in that, whereas it is the exception for a majority of the committee not to override the rules whenever they please. I do not believe it is fair to take the case of Mrs. Porter, whose husband was treated unjustly, and who lost his pay for years, and compare it with the ordinary case that comes before the committee.

Mr. BRISTOW. Mr. President——

Mr. McCUMBER. I yield to the Senator from Kansas.

Mr. BRISTOW. Referring to the statement of the Senator from North Dakota that I had been one of the offenders in inducing the Senate to violate the rules of the committee, I want to say that the Senator is entirely mistaken. I may have voted to overrule the committee upon one or two cases—I do not remember; but if I did it was in behalf of a bill that some Senator was advocating and which the committee was resisting. I know that I have never taken a case from the committee to the floor of the Senate in which I was personally interested and attempted to get the committee overruled. Whenever the committee announces that the rules of the committee forbid a pension, under such circumstances I yield to the decision of the committee, and I always have done so.

I wish to say that if the committee on its own motion and by the vote of its own members violates those rules and reports for one Senator a case and under exactly the same circumstances refuses a report for another Senator, it is a gross injustice and indefensible.

Mr. DU PONT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Delaware?

Mr. McCUMBER. Let me first answer the Senator from Kansas. The Senator must know, I think, that this is a House bill; it is not a Senate bill. It comes to us from the House with a House report on it. The House undoubtedly can act in accordance with its rules or waive its rules in a particular case. Of course, we can not govern what the House may do. The chairman tries to call the attention of the committee at each of its sessions to every case that he thinks is an infringement upon the rule.

The committee, like the Senate itself, often turns down the views of the chairman as to what ought to be done upon the rule. That is not the fault of the chairman. He attempts in all instances to have the rules applied to House bills that are applied to Senate bills, and applied equally to all persons. I think the Senator will agree with me that no one has been more

diligent in their efforts, both in committee and on the floor, to appeal to Senators that they do not make bad precedents.

Mr. BRISTOW. I admit that.

Mr. McCUMBER. If they have voted in a way that the chairman thought was wrong in one instance, the chairman has called attention to the fact that that one instance would make a bad precedent. The chairman must be more or less responsible; he has to defend the committee whenever there is a precedent brought up, and it is his desire to make matters as clearly right as possible.

Let me say to the Senator that being unable to get the committee to agree with me in all instances that we ought not to grant a pension to any person who has been remarried, the chairman has at least succeeded in his efforts in holding the committee down to this proposition: That where the husband has died of injuries incurred in the service, and where the second marriage was after the woman had become old and practically helpless and had rather remarried in order to secure a home in her old age, and her real life and about all her married life was with the soldier husband, and having made a mistake in her anxiety to secure a home in marrying a man whom she ought not to have married, and having obtained a divorce in a very short time, the majority of the committee seemed to look at that as more of a mistake than a real marriage, and they would regard her long life with the soldier husband—would regard the fact that he had died of injuries incurred in the service as justifying them in overturning the rule.

Mr. BRISTOW. In response to what the Senator from North Dakota has just said, if he will permit me, I want to give him credit for defending the rules of the committee on the floor with great vigor. I think he is entitled to commendation for the way he has done so. I believe that thoroughly; but my complaint is a serious one, because it opens the field to very great injustice.

Suppose it is a House bill. The situation might be then that the Member representing a district can take the identical case to the House and get the pension, while the Senator is precluded from getting the pension, if the bill should originate in the Senate. So the Senator can readily see that nothing could be more unjust, more inequitable, or more demoralizing as a legislative procedure.

Mr. McCUMBER. I agree with the Senator. I have stated that again and again.

Mr. BRISTOW. It is almost unthinkable that the Senate would tolerate such a thing as that.

Mr. McCUMBER. But I think the Senator would probably find that the case he has in mind would not coincide with this in all respects; first, as to the fact of the death of the husband being due to injury incurred in the service; second, as to the great length of the real married life with that husband; and, third, as to the very short time of the second marriage and the divorce immediately following. Possibly that might differentiate the case the Senator refers to. I do not say that it does.

Mr. BRISTOW. I do not think that such is the case.

Mr. McCUMBER. It may not be.

Mr. BRISTOW. The evidence may not have been clear that the death occurred from injuries in the service, because that is a difficult thing to prove, as the Senator well knows.

Mr. McCUMBER. Certainly.

Mr. BRISTOW. It gets into very hazy kind of evidence when we undertake to trace back the cause of death. I certainly must contend that when the Senate committee reports a bill of this kind under these circumstances in violation of its rules, it is due to the Senators who undertake to conform to those rules that such a case should not be permitted to pass.

Mr. DU PONT. Mr. President, the Senator from North Dakota has referred to me as an offender, inasmuch as I was one of those who induced the Senate to violate the rules of the Pension Committee in the case of Mrs. Porter and, I believe, in that of Mrs. Hawkins. Be that as it may, I should like to say that my advocacy of those cases on the floor of the Senate was simply the support of the majority report of the Pension Committee, and if these be offenses I must say that I glory in such offenses.

Mr. McCUMBER. I think possibly I am justified in stating that the cases referred to did not come within the rule of destitution. Under the rules of our committee no pension should be allowed under any circumstances by private bill unless there is a case of destitution, and it was not stated that either of the cases came within that rule.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. McCUMBER. I move that the Senate proceed to the consideration of House bill 27874.

Mr. DU PONT. I should like to inquire if that is a House omnibus pension bill.

Mr. McCUMBER. It is.

The PRESIDENT pro tempore. The question is on the motion of the Senator from North Dakota.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, which had been reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, at the top of page 2, to strike out:

The name of William Bennett, late of Capt. Hart's independent company, Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 2, after line 23, to strike out:

The name of George W. Lyons, late of Capt. N. P. Willard's company, First Regiment Florida Mounted Volunteers, Florida Seminole Indian war, and pay him a pension at the rate of $10 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 3, line 6, before the words "per month," to strike out "$15" and insert "$12," so as to read:

The name of John E. Jones, late of the Hospital Corps, United States Army, War with Spain, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 3, after line 13, to strike out:

The name of John E. Zoucks, late of Capt. G. U. Ellis's company, Florida Volunteers, Florida Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 4, after line 23, to strike out:

The name of Robert P. Prescott, late of Capts. Jernigan and Rutland's independent company, Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, after line 3, to strike out:

The name of Josiah J. Sikes, late of Capt. Brady's company, First Regiment Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, after line 8, to strike out:

The name of Rosalia Spohr, widow of Mathias Spohr, late of Capt. Sommer's company, Louisiana Volunteers, Florida war with Seminole Indians, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. BRIGGS. Mr. President, I move to add an amendment at the end of the bill, which I send to the desk.

The PRESIDENT pro tempore. The Senator from New Jersey offers an amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

The name of Ellen B. Woodbury, widow of Thomas C. Woodbury, late colonel Third Regiment, United States Infantry, and pay her a pension at the rate of $50 a month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of said Thomas C. Woodbury until she reaches the age of 16 years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. McCUMBER. I move that the Senate proceed to the consideration of House bill 28379.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers

and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, which had been reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, on page 2, after line 2, to strike out:

The name of Cornelia A. Mobley, widow of William L. Mobley, late of Capt. Martin's and G. W. Smith's companies, Florida Volunteers, Florida Seminole Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 3, after line 5, to strike out:

The name of James H. Swallum, alias James H. Shields, late of Troop H, Seventh Regiment United States Cavalry, and pay him a pension at the rate of $8 per month.

The amendment was agreed to.

The next amendment was, on page 3, line 24, before the name "Space," to strike out "Aminda" and insert "Arminda," so as to read:

The name of Arminda Space, dependent mother of William H. Space, late of Battery K, First Regiment United States Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, after line 8, to strike out:

The name of Sarah J. Wood, widow of Buzzilla Wood, late of Capt. Stewart's company, First Regiment Florida Mounted Volunteers, Florida Seminole Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. McCUMBER. I move that the Senate proceed to the consideration of House bill 28282.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, which had been reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, on page 6, line 4, after the word "receiving," to insert: "*Provided*, That in the event of the death of California Haysmer, helpless and dependent child of the said James Haysmer, the additional pension herein granted shall cease and determine," so as to read:

The name of Anna M. Haysmer, widow of James Haysmer, late of Company F, First Regiment Michigan Volunteer Engineers and Mechanics, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of California Haysmer, helpless and dependent child of the said James Haysmer, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 9, after line 18, to strike out:

The name of Anna O. Stanton, widow of Clark Stanton, late of Company A, First Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 14, line 23, before the words "per month," to strike out "$24" and insert "$30," so as to read:

The name of Henry C. Adams, late of Company E, Second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, line 19, after the word "helpless," to insert "and dependent," so as to read:

The name of Ida Newcomer, helpless and dependent child of Henry Newcomer, late of Company K, Two hundred and third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 26, line 1, after the name "Samuel," to strike out the letter "R" and insert the letter "F," so as to read:

The name of Samuel F. Garrett, late of Company I, Thirty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 28, line 19, before the word "widow," to insert "former," and in line 23, before the words "per month," to strike out "$17" and insert "$12," so as to read:

The name of Frances A. Ayers, former widow of Benjamin S. Ayers, late of Company K, Twelfth Regiment Indiana Volunteer Infantry, and Company G, One hundred and forty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 29, after line 6, to strike out:

The name of Rosa Prentiss, widow of Leander P. Prentiss, late of Company E, Fifth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 30, line 2, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer" to insert "Mounted," so as to read:

The name of Peter F. Dixon, late of Company E, Eighth Regiment Tennessee Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 30, line 19, before the words "per month," to strike out "$40" and insert "$30," so as to read:

The name of Isaac J. Nichols, late of Company A, First Regiment Alabama Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 32, after line 12, to strike out:

The name of Severyn T. Bruyn, late of Company K, One hundred and forty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 37, line 11, before the words "per month," to strike out "$60" and insert "$50," so as to read:

The name of John H. Civits, late of Company C, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 39, after line 5, to strike out:

The name of Frances D. Cadamus, former widow of Robert Phillips, late of Company D, Ninety-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 41, line 22, before the words "per month," to strike out "$40" and insert "$50," so as to read:

The name of Daniel Caswell, late of Company E, Fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 43, after line 2, to strike out:

The name of Andrew W. McCullough, late of Company E, Eleventh Regiment Pennsylvania Reserve Volunteer Infantry, and Company A, Fifty-fourth Regiment Pennsylvania Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 47, line 2, before the words "per month," to strike out "$25" and insert "$24," so as to read:

The name of Finetta L. Wood, widow of Enoch Wood, late of Company F, Seventeenth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 48, line 17, after the name "Reindeer," to insert "United States Navy," and in line 22, after the word "determine," to trike out "*And provided further*, That in the event of the death of Elizabeth N. Brand, the name of said Charles Alfred Brand shall be placed on the pension roll subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth N. Brand," so as to read:

The name of Elizabeth N. Brand, widow of George J. Brand, late seaman United States ships Grampus and Reindeer, United States Navy, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Charles Alfred Brand, helpless and dependent son of said George J. Brand, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 50, line 23, before the words "per month," to strike out "$60" and insert "$50," so as to read:

The name of Albert S. Bloomer, late of Company G, Fifty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is receiving.

The amendment was agreed to.

The next amendment was, on page 52, after line 8, to strike out:

The name of Mary L. Merchant, widow of Silas B. Merchant, late of Company G, Forty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

Mr. McCUMBER. I move that the amendment be disagreed to.

The amendment was rejected.

Mr. McCUMBER. On page 52, line 12, after the words "rate of," I move to strike out "$25" and to insert "$20."

The amendment was agreed to.

The next amendment was, on page 56, after line 13, to strike out:

The name of Louisa I. Baldwin, widow of William H. Baldwin, alias William Dunlap, late of Company I, Ninth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 58, line 21, before the words "per month," to strike out "$24" and insert "$20," so as to read:

The name of Dorothy E. Bacon, widow of Francis H. Bacon, late acting ensign, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 59, line 16, before the word "Volunteer," to strike out "Mounted," and, in the same line, after the word "Volunteer," to insert "Mounted," so as to read:

The name of Samuel C. Robertson, late of Company C, Third Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 61, line 8, before the words "per month," to strike out "$30" and insert "$24," so as to read:

The name of Mary Bartlett Taylor, widow of Isaac Taylor, late of Company H, Third Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 61, line 17, after the words "per month," to insert "such pension to cease upon proof that the soldier is still living," so as to read:

The name of Sarah A. Bland, widow of Francis M. L. Bland, late of Company D, Ninety-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month, such pension to cease upon proof that the soldier is still living.

The amendment was agreed to.

The next amendment was, on page 63, after line 13, to strike out:

The name of Hannah M. Brewer, widow of Benjamin Brewer, late of Company C, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, at the top of page 65, to strike out:

The name of Stephen G. Lindsey, late of Company B, Eighty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 67, line 7, before the word "widow," to insert "former," so as to read:

The name of Nancy Walton, former widow of Jacob Walton, late of Company H, Seventy-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 68, line 7, before the word "widow," to insert "former," so as to read:

The name of Jennie McMurtrie, former widow of Rudolph McMurtrie, late private United States Marine Corps, and of Company C, One hundred and twenty-fifth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 68, line 17, before the word "widow," to insert "former," so as to read:

The name of Rachel Castell, now Robbins, former widow of Hiram Castell, late of Company C, Seventh Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 71, line 16, after the word "receiving," to insert "*Provided*, That in the event of the death of Maria E. Seib, helpless and dependent child of the said Jacob Seib, the additional pension herein granted shall cease and determine," so as to read:

The name of Caroline Seib, widow of Jacob Seib, late of Company F, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Maria E. Seib, helpless and dependent child of the said Jacob Seib, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 73, after line 13, to strike out:

The name of Sarah J. Benton, widow of James P. Benton, late of Company I, Sixty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 75, line 10, before the word "Regiment," to strike out "Fourtieth" and insert "Fortieth," so as to read:

The name of George W. Lawson, late of Company E, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 80, line 8, before the word "widow," to insert "former," so as to make the clause read:

The name of Nancy Stutesman, now Olmstead, former widow of James Stutesman, late of Company H, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 82, after line 21, to strike out:

The name of Nellie McMillan, helpless and dependent child of Daniel McMillan, late of Company F, One hundred and fifty-fourth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 83, line 8, after the word "receiving," to insert "the same to be paid to him without any deduction or rebate on account of former alleged overpayments or erroneous payments of pension," so as to read:

The name of James Anderson, late of Company C, One hundred and thirteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving, the same to be paid to him without any deduction or rebate on account of former alleged overpayments or erroneous payments of pension.

The amendment was agreed to.

Mr. BRYAN. On page 28, I move to strike out lines 11 to 14, inclusive.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 28, after line 10, it is proposed to strike out:

The name of Mary A. Pfister, widow of Reinhard Pfister, late of detachment of Artillery, United States Military Academy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. BRYAN. Mr. President, I presume this item can be acted upon without any discussion.

Mr. McCUMBER. May I ask the Senator on what page of the report the item appears?

Mr. BRYAN. On page 59. As I started to say, I think this item can be acted upon without discussion, if the Senate follows the precedent established in the case of the last item upon which we voted. This is the case of a widow who married after the service of her husband. His service is designated by the report as a "peace service at the West Point Military Academy." I simply say that, according to the last action of the Senate, this item should be stricken out.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. BRYAN. I move to strike out lines 14 to 17, inclusive, on page 21.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 21, after line 13, it is proposed to strike out:

The name of Edwin F. Miller, late of Company F, Ninety-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. BRYAN. I request the Secretary to read the record of the soldier affected by this item.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

H. R. 14345. Edwin F. Miller, aged 65 years, served as a private in Company F, Ninety-eighth Regiment Pennsylvania Volunteer Infantry,

from April 8, 1865, to July 10, 1865 (3 months), and is now a pensioner under the act of February 6, 1907, at $12 per month on account of age. Formerly pensioned under act of June 27, 1890, at $8 for loss of sight of left eye and injury to left ankle and right hand. Address, Leechburg, Pa.

Three physicians testify that pensioner is now totally blind, cataracts having grown over both eyes; besides he has rheumatism and is entirely unfit to care for himself, and requires assistance at all times.

Neighbors testify that soldier has no property, real or personal, and no income whatever other than his pension.

An increase to $24 is recommended, his short service not justifying a larger amount.

Mr. BRYAN. The report which passed the committee reads as follows:

In this case the soldier did not enlist until April 8, 1865, the close of the war, and only served three months, but he is now totally blind, and it might be allowed.

Mr. President, it is simply allowing our feelings of sympathy for a blind man, who never saw any service in the war, whose blindness is not due to any enlistment, who only enlisted the day before Lee's surrender, and who saw no service at all—it is purely and simply a pension because of his unfortunate condition and because he is poor. That is all I care to say about the case. It is not a war pension at all.

Mr. McCUMBER. Mr. President, the claimant in this case is totally blind. He is not very old, being only 65 years of age, and probably could not have enlisted prior to early in 1865 unless he had enlisted very much under age. He had sufficient service so that he was drawing a pension under the act of 1907, and on account of his total blindness and the necessity of having an attendant the House granted the little pension of $24 per month. If he had had longer service the pension might have run up as high as $40 or $50 a month.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Florida.

The amendment was rejected.

Mr. BRYAN. I move to strike out lines 19 to 23, on page 28.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 28, after line 18, it is proposed to strike out:

The name of Frances A. Ayers, former widow of Benjamin S. Ayers, late of Company K, Twelfth Regiment Indiana Volunteer Infantry, and Company G, One hundred and forty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. BRYAN. Mr. President, as I understand, this case is identical with the case which attracted the attention of the Senator from Kansas [Mr. BRISTOW]. The bill provides for a remarried widow whose first marriage was subsequent to her deceased soldier husband's service. According to the rule which the Senator from Kansas says he has always felt to be binding upon him, this item ought not to be in this bill. It is exactly like the item heretofore stricken out.

Mr. McCUMBER. I ask the Senator on what page of the report that item appears, in order that I may look it up?

Mr. BRYAN. On page 60. The report, I will say to the Senator, of the clerk of the Committee on Pensions is:

In this case it is proposed to grant a pension of $17 per month to a remarried widow. The soldier's death was not due to service, and in such cases $12 is the amount usually allowed.

Mr. McCUMBER. This is similar to the cases which I have heretofore mentioned, where there has been a remarriage. This widow was the soldier's wife during his service.

Soldier and applicant were married June 3, 1862. She was pensioned under act of June 27, 1890, at $8, her claim under the general law having been rejected, because soldier's death was not due to the service. Her name was dropped from the rolls by reason of her remarriage, November 13, 1907, to Isaac H. Myers, from whom she divorced at her own request, April term, 1910, and allowed to resume her name of Ayers.

When rather an old woman she was remarried in 1907, making the usual mistake that old ladies make at that time of life in getting married; but the Senate committee seems to have overlooked that error on her part, and granted the pension. I leave the matter entirely to the Senate.

Mr. BRYAN. I desire to call attention to the fact that the property of this woman is assessed at $500, and she derives from it a net rent of $75 a year. She is 66 years old. She is not now the widow of a soldier. According to the record, she did marry him between two periods of service; so I was mistaken in saying that this case is exactly like the case acted upon a few moments ago. I do not care to say anything further about it. Under the rules of the committee, she would not be entitled to be upon the pension roll.

The PRESIDENT pro tempore. The question is upon the amendment of the Senator from Florida to strike out the paragraph.

The amendment was rejected.

Mr. BRYAN. I move to strike out lines 24 and 25, on page 53, and lines 1 and 2, on page 54.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 53, after line 23, it is proposed to strike out:

The name of Augusta Batdorf, former widow of John C. Sanders, late of Company A, One hundred and twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. BRYAN. Mr. President, in brief, this is the case of a widow whose husband saw service between November, 1863, and July, 1865. She was married to him in 1869; she was remarried in 1893, and, therefore, under the rules of the committee she is not entitled to a pension. This case is identical in principle with the case which attracted so much attention from the junior Senator from Kansas a few moments ago, and the Senate voted to strike that item from the bill; so, in order to be consistent, this item ought also to be stricken from this bill.

Mr. McCUMBER. Does the Senator remember the page of the report? As he is aware, the report is quite voluminous and it takes some time to find particular items.

Mr. BRYAN. Page 110 of the House report. There is another interesting thing about this case. The comment of the clerk of the committee is:

She did not marry the soldier until 1869, four years after his discharge. She was his wife about 10 years. She again married and was the wife of the second man 10 years, and then again married. The third husband committed suicide in 1911. The principal question in this case is whether she should be considered the widow of the soldier. It is clearly against the rules of your committee as to granting pensions to remarried widows.

Mr. McCUMBER. I wish to state to the Senator that I shall not oppose his motion.

Mr. BRYAN. I do not know but that other Senators might oppose it. I hope the Senator will not oppose it, because if we grant her a pension it ought to be because her third husband committed suicide. There is no other reason for it. To grant a pension in such a case is against the rules of the committee; and for the fight I have made here for about two hours, I should like to be rewarded by seeing this item go out of the bill.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. BRYAN. I desire to say there are two other amendments that I wish to offer, but I am not able to turn to the pages of the bill where they are found; but I can turn to the pages in the report and we can identify them in the bill and have them acted upon in that way. I move to strike out the item which grants a pension to Mary O'Brien, which we will identify. I would state, Mr. President——

Mr. McCUMBER. On what page in the report is that item found?

Mr. BRYAN. On page 123 of the House report. Her husband saw service only from April 19, 1861, to July 26, 1861. He was never pensioned. He started in at the war, and got enough in three months, and never went back any more. His widow applied for a pension under the general law, and her application was rejected. She is now receiving $12 a month. But, Mr. President, she did not marry the soldier until 1863, two years after his service, and under the rules of the committee should not be in this bill.

The PRESIDENT pro tempore. If the Senator will pardon the Chair, the item will be found on page 60, lines 7 to 10, inclusive.

Mr. BRYAN. Then I move to strike that from the bill, Mr. President. I want to say now that, of course, I am not interested in these particular items, but it is a most dangerous precedent if we start out to pension widows who have no better claim to it than is shown in this case, it makes no difference how pitiable the condition is or how poor they are, because they can not be separated by any process of reasoning from those in like condition who have never happened to marry a soldier.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 60 it is proposed to strike out lines 7, 8, 9, and 10, as follows:

The name of Mary O'Brien, widow of Timothy O'Brien, late of Company H, Ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The PRESIDENT pro tempore. The question is upon the amendment.

The amendment was agreed to.

Mr. BRYAN. Mr. President, I can not locate the place in the bill, but the next item which I move to strike out relates

to Leora R. Maxon, and is found in the House report, on page 107. The comment in this Senate document is as follows:

If the beneficiary were helpless before arriving at the age of 16 years, she could get a pension by applying at the bureau and proving helplessness. The testimony indicates that she incurred her injury long after arriving at the age of 16 years.

The PRESIDENT pro tempore. If the Senator will pardon the Chair, the item will be found on page 52, in lines 5 to 8, inclusive.

Mr. BRYAN. I compliment the Chair on being able to turn to it so quickly.

Mr. President, that would also be a dangerous precedent. It is not only not authorized by law, but it is forbidden by law. We certainly ought to keep within the provisions of the statute and not go outside them. The statutory provisions are broad and liberal enough already. I hope the chairman of the committee will concede the wisdom of having that item stricken from the bill. We must some day stop adding new classes. If we begin now to pension the children whose fathers were in a war somewhere, at some time, after they are grown, there never will be any end to this pension roll, and it will sooner or later tend to reflect upon those who have a rightful place on the roll.

Mr. President, it was only in 1911 that the last pensioner of the Revolutionary War went off the rolls. If we start this kind of practice now, in addition to the liberality of recent years, we will be pensioning the great-grandchildren of anybody who ever enlisted in the Civil War. I hope the Senator will agree with me that this item should be stricken out, and raise no objection to it.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 52, it is proposed to strike out lines 5, 6, 7, and 8, as follows:

The name of Leora R. Maxon, helpless and dependent child of Jonathan H. Maxon, late of Company D, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. McCUMBER. Mr. President, I call attention to the fact that under the present law pensions are allowed to helpless and dependent children where the cause of the helplessness accrued before the child became 16 years of age. There was some doubt in this case as to when it accrued, but the committee agreed with the statement made by the Member introducing the bill. That statement was:

The Member introducing this bill has known applicant since childhood, and says she has been virtually helpless all that time, and that she has no property or means of support.

I am giving that simply to show that it would come within the rules, if that statement be correct. Being a helpless child, having been a helpless child of the soldier from infancy until the present time, it is clearly within the right and within the rules to grant the pension.

Mr. BRYAN. The Member who introduced the bill, as I understand, does not say "since infancy"; he says "since childhood." If it be a fact that she was injured before she was 16, she does not need a special bill, and the comment of whoever prepared this Senate document is applicable and very pertinent. If it be the fact that she was helpless before she was 16, she does not need any special bill. The law will give her that protection without a special act of Congress.

Mr. McCUMBER. I will call attention to the fact that in a number of instances, where the department has held that the ailment was not incurred until after 16 years of age, the committees of both Houses, after going through the evidence, have disagreed as to what the evidence established; and in many instances, not only in reference to cases of this character, but in other cases, the committees of both Houses, in their judgment, have found upon the facts differently from the Bureau of Pensions.

Mr. BRYAN. Mr. President, I think it will be conceded that these matters can be much more justly settled by a pension bureau, which is interested only in administering the law as it is written, and the rules under which it is to act, than we can settle them here.

It ought not to be hard to ascertain, either from this applicant for a pension herself, or from somebody, somewhere, when it was that she suffered her illness. It seems to me that in that vicinity, among her acquaintances, somebody could fix the time; and if that time be fixed before she was 16, she is already protected. She already has the right. If it was after she was 16, we are, by the passage of bills like this, establishing a precedent that injuries at any time will allow them a place upon the pension roll. If it is desired to establish that kind of a precedent, it ought to be done with a full knowledge of what may be expected.

The PRESIDENT pro tempore. The question is upon the amendment offered by the Senator from Florida.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. McCUMBER. I move that the Senate proceed to the consideration of Order of Business 1144. I desire to say to Senators that there are only two very short bills left now, and then we will be through with them.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 28746) granting pensions and increase of pensions to certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors.

Mr. MYERS. I move to amend the pending bill, on page 3, line 9, by striking out "$40" and substituting in lieu thereof "$50," so as to make the paragraph read:

The name of Belle McP. McCrackin, widow of Alexander McCrackin, late captain in the United States Navy, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

My reason for making that motion is that the widow in this case, as I understand, is the widow of a naval officer who was a commodore when he died; and I understand the rule to be that no widow of a naval officer shall receive $50 per month except widows of men who were commodores in active service. This deceased husband was only a captain while he was in active service, but when he was retired and put on the retired list he was made a commodore. He was then a retired commodore, and he died a commodore, although he was not actually in service as a commodore. There are some special circumstances, however.

This man entered the United States Navy as a boy, when he was 13 years of age. He ran away from home and got in the Navy as a boy, and served during the War of the Rebellion, beginning as a boy 13 years old. He afterwards entered the Regular Navy and remained in it all of his life, and made a most efficient officer. He died in very straitened circumstances. I understand the widow has no income, aside from this pension, except about $20 per month; she has a daughter about 16 years old to educate, and it is insufficient. I move that the amount be made $50.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 3, line 9, it is proposed to strike out "$40" and insert "$50."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. McCUMBER. I move that the Senate proceed to consider Order of Business No. 1145.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 28672) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. DU PONT. Mr. President, I move that the Senate proceed to the consideration of the bill (H. R. 28699), making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1914, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. DU PONT. I now move that the formal reading of the bill be dispensed with, and that the bill be read for amendment, the committee amendments to be first considered.

The motion was agreed to.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Military Affairs was, under the subhead "permanent establishment," on page 2, line 5, after the word "cadets," to strike out "$360,000" and insert "$390,000," so as to make the clause read:

For pay of cadets, $390,000.

The amendment was agreed to.

The next amendment was, on page 4, line 4, after the word "service," to strike out "$1,000" and insert "$864," so as to make the clause read:

Additional pay for length of service, $864.

The amendment was agreed to.

The next amendment was, on page 4, line 5, after the word "service," to insert "detachment," so as to make the clause read:

For pay of general Army service detachment: One first sergeant, $540.

The amendment was agreed to.

The next amendment was, on page 5, after line 18, to strike out:

For additional pay of one sergeant in charge of detachment mess, at $6 per month, $72.

The amendment was agreed to.

The next amendment was, on page 6, after line 7, to strike out:

For additional pay for one sergeant in charge of mess, $72.

The amendment was agreed to.

The next amendment was, under the subhead "Buildings and grounds," on page 27, line 1, after the word "completion," to strike out "$70,500" and insert "$95,500: *Provided*, That $25,000 of this amount shall be available for furnishings and fittings such as are necessary to suitably equip this new building for the purposes for which erected," so as to make the clause read:

For completion of the East Academic Building, including finished grading, approaches, etc., in accordance with the plans and specifications approved by the Secretary of War, to be immediately available and to remain so until completion, $95,500: *Provided*, That $25,000 of this amount shall be available for furnishings and fittings such as are necessary to suitably equip this new building for the purposes for which erected.

The reading of the bill was concluded.

Mr. ROOT. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 2, after line 5, it is proposed to insert:

Provided, That hereafter whenever all vacancies at the Military Academy shall not have been filled as a result of the regular annual entrance examinations the remaining vacancies shall be filled by admission from the list of alternates from the respective States in which the vacancies occur, selected in their order of merit established at such entrance examinations. The admissions thus made shall be credited to the United States at large and shall not interfere with or affect in any manner whatsoever any appointment authorized by existing law: *Provided*, That whenever, by the operation of this or any other law, the Corps of Cadets exceeds its authorized maximum strength as now provided by law the admission of alternates as prescribed in this act shall cease until such time as the Corps of Cadets may be reduced below its present authorized strength.

Mr. ROOT. I will say that this amendment is the provision to avoid vacancies in the Military Academy by reason of the failure of candidates to pass their examinations in the form which was agreed upon by the Committee on Military Affairs last year. It was passed by the Senate last year, but fell by the wayside in conference.

I think it is quite absurd to keep that great plant at West Point, designed to accommodate a given number of pupils, and then have a large number of the places vacant, when we have the young men who wish to enter and who pass the requisite examination for their admission.

I hope the Senate will take the same view that it did last year and that another attempt will be made to cure this rather wasteful and futile condition, in which we have the plant, the professors, the teachers, and the drillmasters to deal with vacancies.

Mr. DU PONT obtained the floor.

Mr. OWEN. Mr. President——

Mr. DU PONT. I yield to the Senator from Oklahoma, if he wishes to discuss this matter.

Mr. OWEN. I merely wish to ask whether this provision would transfer the appointments from one district to another, or whether it would confine them to the alternates within the district?

Mr. ROOT. Mr. President, under the present law the appointment stays in the district until all the candidates named from that district as principal, first alternate, second alternate, and, I think, now, third alternate, have been exhausted. If none of them is able to pass the necessary examination, then there is a vacancy from that district. Under this provision, in that case the vacancy would be filled from the list of alternates from other districts of the same State in the order of merit as shown by their examination.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from New York.

The amendment was agreed to.

Mr. CURTIS. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to insert, at the end of the bill, the following:

For construction of a building for instruction purposes for the military post at Fort Leavenworth, Kans., heretofore provided for in the act making appropriations for the support of the Army, as approved August 24, 1912, $10,000, and there is hereby continued available for the construction of this building the amount which was appropriated therefor by the terms of the act mentioned.

The amendment was agreed to.

Mr. CURTIS. I should like to have printed in the RECORD a letter which I have here explaining the necessity for this amendment.

The PRESIDENT pro tempore. Without objection, that order will be made.

The letter referred to is as follows:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF THE QUARTERMASTER CORPS,
Washington, February 13, 1913.

Hon. D. R. ANTHONY, Jr., M. C.,
United States House of Representatives, Washington, D. C.

MY DEAR SIR: The Army appropriation act for the fiscal year 1913, as you know, contains an item of $10,000 for the construction of a building for instruction purposes at Fort Leavenworth, Kans.

The original estimate for the building desired by the local authorities amounted to $37,768.19, and the original amendment proposed to the Army appropriation bill provided for an appropriation of $20,000 for the building in question. The bill as finally passed, however, contained a provision for only $10,000.

With a view of putting the work under contract at the earliest practicable date, this office investigated the matter, and received a report as to the number of children to be provided for in the proposed school building, and their approximate ages, in order to determine the size of building needed. It has been found that accommodations for approximately 135 pupils will be needed. To construct a building suitable for that number would cost not less than $15,000, and a building to cost $20,000 is recommended.

As you were interested in obtaining the provision in the Army bill above referred to, before making recommendation that the amount now available for this purpose be allowed to lapse into the Treasury, and steps taken to include the sum of $20,000 in the Army appropriation bill for the fiscal year 1915, I thought it advisable to bring this matter to your attention, with a view of obtaining any suggestion in connection therewith that you may desire to make.

Very respectfully,

J. B. ALESHIRE,
Chief, Quartermaster Corps.

Mr. JOHNSTON of Alabama. I offer an amendment, to come in just after the last amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment just agreed to, at the end of the bill, it is proposed to insert:

The President of the United States is hereby authorized, by and with the advice and consent of the Senate, to appoint William W. Prude, late a cadet at the Military Academy at West Point, to the position of second lieutenant of Infantry in the Army and to place him upon the retired list with the pay of a retired second lieutenant of Infantry.

Mr. JOHNSTON of Alabama. I hope the chairman will accept that amendment.

Mr. DU PONT. I will accept the amendment. I believe it to be right in principle and a simple act of justice.

Mr. BRISTOW. I should like an explanation of that. It seems to me a dangerous thing to do. What are the circumstances which call for retiring this young man before he enters the Army, apparently?

Mr. JOHNSTON of Alabama. The circumstances are that he went to West Point a hearty, vigorous boy, stayed there about three years, contracted tuberculosis, and is now in a desperate condition. He contracted tuberculosis while at West Point. I will say to the Senator that a bill on this particular subject has already passed by a unanimous vote.

Mr. ROOT. Mr. President, I do not know anything about this case, but I know we passed a precisely similar bill here a little while ago for a young man at the Naval Academy. I made some inquiry into that case and satisfied myself that he had contracted the tuberculosis because we did not take sufficient care to safeguard the health of the young men there. The tuberculosis manifestly came from cows that were infected, and that ought to have been guarded against.

Mr. JOHNSTON of Alabama. I simply want to say that when this young man went there he was a boy of splendid physique, and stood high in his class. That a man should intentionally contract tuberculosis, or that he should do it from mischance, is hardly probable. It is exactly a parallel case to that involved in the bill which was passed two years ago.

The amendment was agreed to.

Mr. FLETCHER obtained the floor.

Mr. DU PONT. Before the Senator from Florida offers an amendment which I believe will lead to some discussion, I will ask that he yield to me to offer an amendment which I assume

will provoke no discussion. I will send it to the desk to be read.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 27, or at the end of the bill, it is proposed to add a new paragraph, as follows:

The Secretary of War is hereby authorized to permit John C. Scholtz, a citizen of Venezuela, to receive instruction at the United States Military Academy at West Point: *Provided*, That no expense shall be caused to the United States thereby, and that the said John C. Scholtz shall agree to comply with all regulations for the police and discipline of the academy, to be studious, and to give his utmost efforts to accomplish the course in the various departments of instruction, and that the said John C. Scholtz shall not be admitted to the academy until he shall have passed the mental and physical examinations prescribed for candidates from the United States, and that he shall be immediately withdrawn if deficient in studies or conduct and so recommended by the academic board: *And provided further*, That in the case of the said John C. Scholtz the provisions of sections 1320 and 1321 of the Revised Statutes shall be suspended.

Mr. DU PONT. I should like to explain that this amendment embodies the substance of a joint resolution which has already been passed by the Senate. It was offered here upon the recommendation of the State Department and approved by the War Department. It appears that in the congestion of business in the other House it will be impossible to pass it there. So at the request of some members of the Military Committee of the House I have proposed to attach it to this bill.

The amendment was agreed to.

Mr. FLETCHER. I offer the following amendment.

The PRESIDENT pro tempore. It will be read.

The SECRETARY. On page 2, line 5, after the amendment agreed to at that point, insert:

Provided further, That the President be, and he is hereby, authorized to reassemble the court-martial, or as many members thereof as practicable, not less than the minimum prescribed by law, which on August 16, 1911, tried Ralph I. Sasse, Ellicott H. Freeland, Tattnall D. Simkins, and James D. Christian, cadets of the Corps of Cadets of the United States Military Academy at West Point, N. Y., for having violated on August 4, 1911, paragraph No. 132 of the former regulations of the said academy, and sentenced them to be dismissed from the service, and to resubmit the case of any one or more of said cadets upon his or their application to said court for reconsideration of the sentence; and upon such reconsideration the court is authorized to construe said paragraph as not necessarily requiring a sentence of dismissal, but as permitting a lesser punishment, as provided in paragraph No. 142 of the current regulations approved June 15, 1911, and to modify the sentence accordingly: *And provided further*, That the President be, and he is hereby, authorized to carry such modified sentence or sentences into effect, notwithstanding the prior dismissal of said cadets, by reinstating them in accordance with the terms and conditions of the modified sentence as approved by the President.

Mr. BRISTOW. I make the point of order that that is general legislation on an appropriation bill.

Mr. FLETCHER. Will the Senator from Kansas be kind enough to state his point of order?

Mr. BRISTOW. It is legislation on an appropriation bill.

Mr. FLETCHER. Mr. President, I desire to say that this joint resolution passed the Senate at the present session of Congress. It went to the House and was referred to the appropriate committee there, and it was favorably reported and entered on the House Calendar. It will probably require unanimous consent before it can be reached. It is a resolution which has already passed this body, and it has been favorably reported by the appropriate committee in the other body.

I do not see that the point of order can be well taken. I suppose it rests under Rule XVI. I do not know what part of that rule it has reference to. If it is under the first part of the rule, then the amendment is in pursuance of a resolution which has previously passed the Senate during this session and is excepted from the rule. If it has reference to the question of relevancy, then it would be covered by subdivision 3 of Rule XVI. I fail to find any language in that rule in accordance with the point suggested by the Senator from Kansas.

Mr. BRISTOW. The Senator must realize that this is legislation. If he is changing existing law under the rule, it can not be added to an appropriation bill. The rule of the Senate is well known. It has probably been appealed to a hundred times in the last 10 days.

Mr. FLETCHER. I should like to have the Senator specify the provision in the rule where he finds a rule that warrants and justifies the objection which he makes. Will he point it out?

Mr. BRISTOW. Rule XVI.

Mr. FLETCHER. What part of it?

Mr. BRISTOW. There are three:

No amendment which proposes general legislation shall be received to any general appropriation bill.

The PRESIDENT pro tempore. The Chair is prepared to rule upon the point of order.

Mr. FLETCHER. I should say, Mr. President, that this could scarcely be called general legislation. I believe the point was raised in the House that it was improperly on the calendar there because it was not general legislation; that it should be classified under the head of private bills rather than bills of a general nature. I do not see that it is general legislation. It would be legislation that applies only to those particular cadets and to this particular case. It can not be classed as general legislation. It does not cover all cases of even a similar character arising at the academy. It refers particularly to these individuals and to this particular case, and it is not general legislation. It can not be considered general legislation. It refers to a particular instance.

The report shows—and I will take the time of the Senate, if it is desired, to go into that—the reason why this special provision is sought to be enacted under the joint resolution which passed this body and is pending in the other House. It is not general legislation. It could only be claimed that it is special legislation, and that does not come within the rule. The reason, as I said, as set forth in the report on this subject, is that the regulations under which these cadets were dismissed had received a construction by the court-martial board which was not authorized, which was erroneous, as is pointed out by the letter of the Secretary of War upon that subject. The regulation itself had been changed, although the change had not been communicated to the officers at the academy. This court-martial sat on the 16th of August. This identical regulation was changed on the 15th of June. These cadets were not tried under the changed regulations, which had not yet been promulgated there, showing the intention and purpose under the regulation to be that the penalty of dismissal was not a mandatory requirement under the regulation as it then existed.

The PRESIDENT pro tempore. The Chair suggests to the Senator from Florida that the Chair is prepared to rule on the point of order.

Mr. SWANSON. Before the Senator from Kansas insists on his point of order, I wish to say I am satisfied he would not raise it in this case if he understood all the facts. This is the last chance——

Mr. BRISTOW. Mr. President, I do not want to prolong this discussion. I am thoroughly familiar with this case. It has been before the Senate time and again.

The PRESIDENT pro tempore. The Senator from Kansas has submitted a point of order, and the point of order is sustained. If there be no further amendments to be proposed to the bill as in Committee of the Whole, it will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SWANSON. I ask the attention of the Senator from Kansas. This matter was fully discussed in the Senate, and the Senate, after full discussion, passed it, the Senator from Kansas simply voting against it and recognizing more or less the justice of this claim. The Secretary of War recommends it. The House committee has reported it favorably. This is the last chance for four or five young men of high character and standing to get justice. It is not a question of any lack of discipline at the academy. The members of the board who tried them said they tried them under a misapprehension as to what the rules were. The rules have been changed.

I should like to offer this amendment again in the Senate, and I ask the Senator from Kansas to reconsider his objection. It simply allows them to go back and reconvene the board according to the law, which they say they did not understand at that time. If the Senator from Kansas will get the facts, I do not believe he will oppose the amendment. Secretary Stimson investigated this matter. He said the board understood that the rules had not been changed, and if they had known they had been changed they would have considered that. The Committee on Military Affairs of the House, the Committee on Military Affairs of the Senate, the Secretary of War, and the Senate have all passed on this case. This is the last chance five boys have of getting justice at the hands of Congress. The President himself would change it if he had authority. It is too late. The Secretary of War would correct it if he could. This is a case where justice should be given, and I offer that amendment in the Senate.

The PRESIDENT pro tempore. The Senator from Virginia reoffers the amendment.

Mr. SWANSON. I hope the Senator from Kansas will not object to it.

The PRESIDENT pro tempore. The amendment need not be read again unless it is desired. The question is on agreeing to the amendment submitted by the Senator from Virginia.

Mr. DU PONT. Mr. President, I should like to say that from first to last I have had a great deal to do with this case and I have examined it in every detail. Without taking up

the time of the Senate to go over the whole matter, I will say that I consider these four young men have been treated with gross injustice, and it is the least that Congress could do to give them a chance. It is not proposed to reinstate them, but to give them a chance to have their case reinvestigated by the tribunal which originally tried them.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Virginia.

The amendment was agreed to.

Mr. BRISTOW. In view of the circumstances, I feel that I should make my position clear. I do this because I think I ought to do it, not because it is a pleasant thing to do. It is a conviction with me, and I can not change——

The PRESIDENT pro tempore. The Chair would suggest to the Senator from Kansas that the amendment has been agreed to.

Mr. BRISTOW. The amendment that I made the point of order against?

The PRESIDENT pro tempore. It is.

Mr. BRISTOW. I did not withdraw the point of order.

The PRESIDENT pro tempore. The amendment was reoffered in the Senate by the Senator from Virginia [Mr. SWANSON].

Mr. BRISTOW. Mr. President, when did the bill get into the Senate?

The PRESIDENT pro tempore. In the usual procedure.

Mr. BRISTOW. While Senators were on their feet speaking?

The PRESIDENT pro tempore. No; the Senator must not impute to the Chair any wrongdoing.

Mr. BRISTOW. Well, Mr. President, I think——

Mr. SWANSON. I will say to the Senator from Kansas that no effort was made to take any advantage of him. I addressed my remarks for nearly 10 minutes to the Senator from Kansas, urging him——

Mr BRISTOW. It is clear there was an advantage taken.

Mr. THORNTON. Urging him not to make the point of order in the Senate.

Mr. BRISTOW. Oh, yes; I understand.

Mr. SWANSON. I was addressing him, and I thought I had convinced the Senator so that he was not going to make the point of order. The amendment was submitted and voted on, and I thought the Senator had reconsidered the conditions in the case and decided, after he ascertained the facts, not to make the point of order. My remarks were addressed to him, asking him not to make a point of order against the amendment.

Mr. DU PONT. After the Senator from Virginia had reintroduced the amendment in the Senate I then went personally to the Senator from Kansas and requested him not to oppose it. I assumed that he understood it perfectly.

Mr. BRISTOW. I understood the purpose of the Senator from Delaware and the purpose of the Senator from Virginia, and I listened to them as attentively as I could, and to other friends of these young men. This is not a personal matter with me. I never saw the young men. I think that such legislation as this is unwise, and ought not to be made. I appealed to the rules of the Senate and exercised the rights I have under those rules. I had not the slightest idea that the bill had passed from the Committee of the Whole to the Senate. If a Senator loses his rights in such a sudden way as that, because he listens with attention and courtesy to Senators who are speaking to or addressing him, it seems to me it is a very unusual proceeding here.

Mr. SWANSON. I will say that I stated distinctly that the bill had passed from the Committee of the Whole to the Senate, and that this amendment was again in order. I stated distinctly that I hoped the Senator from Kansas would not make his objection. I addressed my remarks to him, and not to the Senate. Then the amendment was submitted and passed. If this is wrong the Senator from Kansas can move to reconsider the vote by which it was passed.

The PRESIDENT pro tempore. It is proper the Chair should say that the bill passed from the Committee of the Whole to the Senate in the usual manner. The Senator from Virginia then offered the amendment and the Chair ventured to say that unless a request was made the reading would be dispensed with. The Chair put the question on agreeing to the amendment, supposing that the Senator from Kansas had changed his mind, as he made no point of order against it.

Mr. BRISTOW. I suppose that I was listening to the chairman of the committee, and this process of passing from the Committee of the Whole into the Senate took place when my attention was diverted.

Mr. DU PONT. If the Senator will allow me, I have already stated that it was after the Senator from Virginia reintroduced the amendment and after the Presiding Officer of the Senate had stated it and said that it would not be read again unless requested, that I left my seat and spoke to the Senator from Kansas. It was not before that. So the Senator could not possibly have been talking to me when that event took place.

Mr. SWANSON. If the Senator from Kansas had listened attentively to me, he would have known that it was done openly.

Mr. BRISTOW. I understand it is perfectly easy when a case is before the Senate like this for a Senator to be deprived of his rights by different processes.

Mr. SWANSON. So far from being deprived of any rights the Senator failed to exercise his rights; he failed to listen to what was going on in the Senate. If he had been attentive to the Senator who was addressing him and called him by name he would not have been deprived of any right. This matter was up; it was debated. It had not been disposed of, for the bill came back into the Senate. Am I to be deprived of the right of offering in the Senate an amendment that is rejected in Committee of the Whole? Everything was done publicly, openly, and fairly. I offered the amendment, and when I offered it I addressed my remarks especially to the Senator from Kansas, appealing to him as an individual Senator to give these boys a chance to have a wrong righted.

I flattered myself that my appeal had convinced him. There was a delay in submitting it, and he had an opportunity to interpose. I thought that he remembered the debate we had heretofore at one time. An objection would then prevent its coming up. The Senator from New York objected at one time, and the Senator from Kansas afterwards simply voted against it, and did not object to unanimous consent, if I remember correctly.

I have no desire to deprive the Senate of its right to pass its judgment upon this question. This is the last chance these boys ever will have of having a wrong corrected. I know that the President would like to correct it; I know that the Secretary of War would like to correct it; the Senate itself has said it would like to correct that wrong; and the military committees of the House and the Senate desire to correct it.

I hope the Senator from Kansas will let the amendment remain in the bill.

Mr. FLETCHER. Will the Senator from Kansas allow me? After the Senator from Virginia had submitted his amendment, the Senator from Delaware [Mr. DU PONT] rose and made remarks upon the subject. Then the Chair, in regular order, put the question on the amendment. There was no purpose or intention and, as a matter of fact, there was not any sort of practice that could at all deprive the Senator of his right in the matter. It came up regularly, and was discussed regularly. That was some time after the Senator's attention had been attracted.

Mr. BRANDEGEE. If it is in order and a proper request, I should like to have the stenographer turn back to the remarks of the Senator from Virginia when he was appealing to the Senator from Kansas stating that he would offer the amendment again when it came into the Senate, and asking him at that time to refrain from making the point of order.

Mr. BRISTOW. Mr. President——

Mr. SWANSON. I have no objection. After the bill got in the Senate I offered it. I stated that I would offer it.

Mr. BRANDEGEE. Whatever the facts are, I should like to have the notes read.

The PRESIDENT pro tempore. The stenographer's notes will be read.

Mr. BRISTOW. I desire to say that it is well known to the Senator from Virginia, and the Senator from Connecticut and the Senator from Delaware know, that when a Senator goes to the desk of another and engages him in conversation he can not listen with courtesy to that Senator and keep track of the details at the Secretary's desk at the same time.

Mr. BRANDEGEE. I should like to have the stenographer's notes read.

Mr. BRISTOW. If the Senator from Virginia was addressing me at that time and the Senator from Delaware was appealing to me at the same time, it was not easy to listen to both. Now, this is not an unusual incident here; it frequently occurs.

Mr. JOHNSTON of Alabama. Mr. President——

Mr. BRISTOW. There is nothing mysterious or unusual about this. The Senator from Virginia knew that I had interposed an objection.

Mr. JOHNSTON of Alabama. I should like to interrupt the Senator for a moment if he will permit me.

Mr. BRISTOW. I will.

Mr. JOHNSTON of Alabama. I want to say to the Senator from Kansas that I heard and saw exactly what was going on at the time. The Senator from Virginia offered his amendment, and it was not the Senator from Delaware, but the Senator

from Kentucky [Mr. PAYNTER] who was attracting the attention of the Senator from Kansas. It was the Senator from Kentucky, who has had nothing at all to do with this matter, and who was, I suppose, discussing some other question with the Senator from Kansas.

Mr. DU PONT. I have already taken occasion twice to remind the Senator from Kansas that I did not attempt to engage in conversation with him until a subsequent time. It was the Senator from Kentucky, as the Senator from Alabama states.

The PRESIDENT pro tempore. The Senator from Connecticut has requested that the stenographer should read his notes as to what actually occurred when the vote on the amendment offered by the Senator from Virginia was taken.

Mr. BRISTOW. I do not know that I am controverting statements Senators make here. I know——

Mr. BRANDEGEE. The point, if the Senator will pardon me——

Mr. BRISTOW. This may be very funny to those who think they have caught me in a trap and prevented me from interposing an objection and having the Rules of the Senate enforced. It is no joke. It is not a question of the merits of this case; it is a question of the rights of a Senator on this floor.

Mr. BRANDEGEE. I wanted to be perfectly courteous to the Senator. I made a request, which I supposed was proper, one that any Senator could make, for the purpose of refreshing my own recollection about what led up to this matter, to have the stenographer's notes read so that what transpired may appear. I think I am entitled to have that done.

The PRESIDENT pro tempore. The Senator is entitled to that. The stenographer will read as requested.

The Reporter read as follows:

The PRESIDENT pro tempore. The Senator from Kansas has submitted a point of order and the point of order is sustained. If there be no further amendments to be proposed to the bill as in Committee of the Whole, it will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SWANSON. I ask the attention of the Senator from Kansas. This matter was fully discussed in the Senate, and the Senate, after full discussion, passed it, the Senator from Kansas simply voting against it and recognizing, more or less, the justice of this claim.

* * * * * * *

I offer that amendment in the Senate.

The PRESIDENT pro tempore. The Senator from Virginia reoffers the amendment.

Mr. SWANSON. I hope the Senator from Kansas will not object to it.

The PRESIDENT pro tempore. The amendment need not be read again unless it is desired. The question is on agreeing to the amendment submitted by the Senator from Virginia.

Mr. DU PONT. Mr. President, I should like to say that from first to last I have had a great deal to do with this case, and I have examined it in every detail, and so forth.

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The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Virginia.

The amendment was agreed to.

Mr. BRISTOW. Mr. President, I desire to say that I did not know that the Senator from Virginia had offered this amendment. I thought it was another amendment. I did not know that he had renewed the amendment at all, and supposed that it was some other amendment relating to something else in the bill. I should have made the objection, the same as I did formerly, if I had known it. If the Senate desires to take advantage of the conditions and circumstances that surrounded me at that time, they have the power to do it, and I have nothing to say; but if this is to be the proceeding, then any Senator can go to the seat of another, engage him in conversation, and bills be passed without objection. This is surely enforcing the rule in a most extraordinary way.

Mr. PAYNTER. Mr. President, the Senator from Alabama has referred to the circumstance that I was engaged in conversation with the Senator from Kansas [Mr. BRISTOW], and also stated that I have no interest in the matter, which is true. A young man in my State to whom I had given the appointment at West Point was there at the time of this trouble and was involved in it, and I was earnestly appealing to the Senator from Kansas to withdraw the point of order; but the proceedings to which reference is now made, and of which complaint is made, took place after I ceased to have the conversation with the Senator from Kansas.

I want to say that I had not the slightest knowledge that such a motion would be made, and I did not know that the question was pending in the Senate, because I had been earnestly appealing to the Senator from Kansas to withdraw his objection.

Mr. SWANSON. Mr. President, if I had not offered the amendment when I did, the bill would have passed in a moment. Desirous of taking no advantages whatever of the Senator from Kansas, I called his attention to the fact—he was looking over this way and I did not know that he was listening to another Senator—that I was going to offer this amendment in the Senate against which he had made a point of order as in Committee of the Whole. I had to do it in one minute or the bill would have passed. I repeat, I addressed myself to him.

The question involved is simply a technical one. These boys are entitled to some rights. They are five young men who have been treated with injustice that the Secretary of War desires to correct; that the President would be glad to correct; that the committee of the Senate desires to correct; that the committee of the other House would like to correct, but on account of the conditions of its business can not correct. I think these five young men, who can never have another opportunity in this country unless some such action as this is taken, are entitled to have their rights presented to the Senate; and if the Senator from Kansas will not listen when he is addressed in connection with their rights, then I, for one, shall insist that the matter shall be disposed of according to the rules of the Senate.

Mr. BRISTOW. Mr. President, the Senator from Virginia [Mr. SWANSON] assumes a good deal in regard to this case. I have been advised that the Secretary of War does not think that injustice has been done these men; I have been advised that the President does not believe that an injustice has been done these men.

Mr. DU PONT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Delaware?

Mr. BRISTOW. I do.

Mr. DU PONT. I am in a position to contradict that point, so far as the President is concerned. The Secretary of War has written to that effect.

Mr. BRISTOW. Mr. President, the Senator from Virginia speaks about this being the last chance. The bill to which the Senator alludes has been before Congress for a year.

Mr. FLETCHER. Will the Senator from Kansas allow me just one moment?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Florida?

Mr. BRISTOW. I do.

Mr. FLETCHER. The Senator from Kansas suggests that he is advised as to the attitude of the Secretary of War being different from that indicated by the Senator from Virginia [Mr. SWANSON]. The letter of the Secretary of War is attached to the report. In it, after referring to the case, he says:

I came to the conclusion that the court in sentencing these cadets was probably influenced by the mistaken construction that under article 132 of the Regulations of the Military Academy, under which these cadets were tried, a penalty of dismissal was mandatory instead of discretionary with the court.

Then he proceeds to say that after conference with the President he gives his assent to the resolution. That is his statement which, as I have said, is attached to this report.

Mr. BRISTOW. Mr. President, of course I do not care to go into a discussion of the merits of the case. About a year ago, as I remember, when it was discussed, I looked into it, though I have not followed it very carefully since; but the Senator from Virginia is appealing in behalf of this case because he says it is the last chance. The bill passed the Senate; it went to the other House; it has been there for months; and now the Senator holds that, because the other House has not passed this bill, it is a gross injustice because the Senate refuses to violate its rules and put it on an appropriation bill. The responsibility for the failure of that legislation, if it fails, is with the House of Representatives.

Mr. DU PONT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Delaware?

Mr. BRISTOW. I do.

Mr. DU PONT. My information is that the bill has been held up in the House of Representatives by a single individual, who is able to do so under the antiquated rules which obtain there. That is the reason the legislation has not been passed. It is not the action of the House of Representatives, but it is the action of a single individual, a single Member of that body.

The PRESIDENT pro tempore. The Chair would caution Senators as to the rule regarding allusions to the other House.

Mr. DU PONT. I do not wish to make any disrespectful allusion. The only commentary I made upon their rules was that they were antiquated; I will withdraw the word; but the fact is that a single individual, under the rules of that House, can hold up the consideration of any measure if it is his disposition to do so.

Mr. BRANDEGEE. How does that differ from the situation in the Senate?

The PRESIDENT pro tempore. The Chair feels it incumbent upon him to make a further observation as to the procedure.

When the bill referred to was before the Senate the present occupant of the chair spoke briefly against it and voted against it. The present occupant of the chair has not changed his mind in regard to the bill. For that reason he gave the Senator from Kansas [Mr. BRISTOW] a rather unusual opportunity to repeat his objection, having with great deliberation put the motions that were put, and which culminated in the agreement to the amendment.

Mr. BRISTOW. Mr. President, I desire to state further that because of my attention being diverted by different Senators who came to my desk and were talking to me about the case, I did not hear the statement of the Chair and I did not know that the amendment had been offered. I supposed that the amendment under consideration was a different amendment from the one offered as in Committee of the Whole. I do not think that any blame can be attached to me, for I do not think that my conduct in this case has been different from that of any other Senator upon the floor. When a Senator comes to my desk I try to listen to him with attention and courtesy. I did so in this case, and if an advantage is to be taken of a Senator in this way, I want to enter my protest. It is unusual; it is not customary. Nobody would resent it more violently than would the Senator from Virginia [Mr. SWANSON] if the conditions had been changed; and I for one will say that I would not take advantage of the rules of the Senate if he were in my position and I were in his.

Mr. PAYNTER. Mr. President, will the Senator from Kansas permit me to interrupt him?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Kentucky.

Mr. BRISTOW. I do.

Mr. PAYNTER. I want to make one statement which I omitted to make when I was on the floor a moment ago, in view of the fact that the attention of the Senator from Kansas was diverted from the consideration of this question, because I know it was by reason, in part, of my conversation with him. The statement I wish to make, however, is that neither the Senator from Virginia [Mr. SWANSON], the Senator from Florida [Mr. FLETCHER], the Senator from Alabama [Mr. JOHNSTON], or the Senator from Delaware [Mr. DU PONT] or any other Member of this body knew that I was going to discuss the question with the Senator from Kansas or to appeal to him to withdraw his point of order. The only Senator who could have known it, other than the Senator from Kansas, was the Senator from Delaware, when he approached the Senator from Kansas and made the same kind of an appeal as did I. After that was done the Senator from Delaware approached his seat, and as I left the Senator from Kansas the Senator from Delaware had commenced his address on the merits of the proposition. So the motion which was made by the Senator from Virginia [Mr. SWANSON] in the Senate was after the conclusion of the address which the Senator from Delaware made and was after I had left the Senator's desk. I make that statement particularly so that the Senator from Kansas will feel assured that no one was aware of the purpose of my visit to them, except himself, myself, and the Senator from Delaware [Mr. DU PONT].

Mr. BRISTOW. I desire to say that I do not attribute to the Senator from Kentucky any unworthy motive at all in coming to my desk and talking to me; I never thought of such a thing. I know that he would not do that with the purpose of attracting or diverting my attention.

Mr. PAYNTER. I did not suppose the Senator had; but in view of the fact that my name was mentioned in connection with it, I felt it due me and the Senate to make this statement.

Mr. SWANSON. I simply want to say that, so far as I am concerned, I have as high respect for the rights of Senators, properly exercised, as has any Senator in this body. I would not under the circumstances have made this motion without an effort to notify the Senator from Kansas, and I addressed my remarks to him; but after this bill has passed, after it has been submitted, is the business of the Senate to be delayed because when business is proceeding in the ordinary course and publicly and openly a Senator from Kansas was so courteous as to be diverted to other matters? This matter was urgent; this matter was before the Senate; I was entitled to his attention, and if I had not gotten his attention and made this motion, in one minute this bill would have passed without an opportunity of doing justice to these boys. Consequently, in justice to them and in justice to my rights as a Senator, and in view of the fact that I was addressing my remarks to him, although it appears he was not giving them attention, I do not feel that I should ask to have this action set aside because of a mere technical objection and not one to the merits of the measure itself.

The PRESIDENT pro tempore. The question is, Shall the amendments be engrossed and the bill read a third time?

Mr. BRISTOW. I move that the vote by which the amendment was adopted be reconsidered.

The PRESIDENT pro tempore. The Senator from Kansas moves to reconsider the vote whereby the amendment in question was agreed to. [Putting the question.] The noes appear to have it.

Mr. BRISTOW. I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Kansas demands the yeas and nays.

Mr. BRANDEGEE. I rise to a point of order, Mr. President.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BRANDEGEE. I want to ask the Senator from Kansas if he voted for the amendment on the ground that a motion to reconsider, as I recall, must be made by a Senator who had voted in the affirmative? I will, however, withdraw that point.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Kansas to reconsider the vote by which the amendment was agreed to, on which he demands the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. PAYNTER (when his name was called). I inquire if the senior Senator from Colorado [Mr. GUGGENHEIM] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. PAYNTER. I have a general pair with that Senator and therefore withhold my vote.

The roll call was concluded.

Mr. BRADLEY. I refrain from voting, being paired with the junior Senator from Indiana [Mr. KERN], who is unavoidably absent.

Mr. DU PONT. I inquire whether the senior Senator from Texas [Mr. CULBERSON] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. DU PONT (after having voted in the negative). Such being the case, as I have a general pair with the Senator from Texas, I shall have to withdraw my vote.

Mr. FLETCHER. I am satisfied that if the Senator from Texas was present he would vote the same way as would the Senator from Delaware.

Mr. DU PONT. Under that assurance, I will let my vote stand.

The PRESIDENT pro tempore (Mr. GALLINGER) (after having voted in the affirmative). The present occupant of the chair is paired with the junior Senator from Florida [Mr. BRYAN], and will therefore withhold his vote.

The result was announced—yeas 33, nays 33, as follows:

YEAS—33.

Borah	Cullom	La Follette	Stephenson
Bourne	Cummins	Lippitt	Townsend
Brandegee	Curtis	Lodge	Warren
Bristow	Dillingham	Page	Webb
Burnham	Dixon	Penrose	Wetmore
Burton	Gamble	Perkins	Works
Clapp	Gore	Poindexter	
Clark, Wyo.	Jones	Smith, Mich.	
Crawford	Kenyon	Smoot	

NAYS—33.

Ashurst	Gardner	Oliver	Smith, S. C.
Bacon	Hitchcock	Owen	Stone
Bankhead	Johnston, Ala.	Pittman	Swanson
Bryan	Kavanaugh	Pomerene	Thornton
Catron	Lea	Richardson	Tillman
Chamberlain	McCumber	Sheppard	Williams
du Pont	Martin, Va.	Smith, Ariz.	
Fletcher	Martine, N. J.	Smith, Ga.	
Foster	Newlands	Smith, Md.	

NOT VOTING—29.

Bradley	Fall	Myers	Shively
Brady	Gallinger	Nelson	Simmons
Briggs	Gronna	O'Gorman	Sutherland
Brown	Guggenheim	Overman	Thomas
Chilton	Jackson	Paynter	Watson
Clarke, Ark.	Johnson, Me.	Percy	
Crane	Kern	Reed	
Culberson	McLean	Root	

So the motion to reconsider was not agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WARREN. I wish to call up the conference report on the legislative, executive, and judicial appropriation bill, which was presented some time ago, read to the Senate, printed in the RECORD, and also as a document; but there was some objection then made to it and it went over. I now move that the report be adopted.

The PRESIDENT pro tempore. The Chair lays before the Senate the conference report on a bill the title of which will be stated.

The SECRETARY. A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

Mr. BORAH. Mr. President, I understand this conference report, so far as the subject matter in which I am interested is concerned, provides an appropriation for certain assay offices until January 1, 1914.

Mr. WARREN. That is correct.

Mr. BORAH. And that there is no provision in the bill affirmatively abandoning these assay offices?

Mr. WARREN. The Senator is correct.

Mr. BORAH. I take it, Mr. President, that the fact that the appropriation extends only to January 1, 1914, is to some extent a notice that the hour of execution is not far away?

Mr. WARREN. The Senator is correct as to the intention of those who wish to abandon the offices.

Mr. BORAH. Mr. President, in view of that I want to say a few words in regard to these assay offices scattered throughout the country, particularly the West. I think there is a misunderstanding as to their usefulness, and also a misunderstanding as to their expense. First, as to the expense of these assay offices, they practically pay their own cost or the amount necessary to maintain them. So far as the office which is located in Boise City is concerned, and so far as I am concerned as a citizen of that particular city, I would rather have a public park in its place than to have the assay office, speaking purely as a resident of the city. But it nevertheless is of great value to a large class of people who are engaged in developing the mining industry of that great intermountain region, which mining industry has not yet been developed, as so many people seem to assume. For instance, the State of Idaho has produced as vital money of the country, since it became a Territory and a State, $300,000,000, and yet it is confidently asserted by those who have familiarized themselves with the capacity or resourcefulness of that country that we have only begun to develop our mining resources. Anything which tends to accentuate the development of that industry or to give encouragement to men to explore the mining regions with a view to finding more of the vital money of the country seems to me a thing which we ought not to disregard, especially when these assay offices take care of themselves.

There is one thing about these assay offices which is of special moment, and that is that they are particularly beneficial to the small mine owner or the prospector, as you might say. Out of the 547 mines depositing in the Boise assay office during the last year 490 of them deposited less than a thousand dollars, which speaks for itself and shows that the office is especially beneficial to the man who is not prepared to ship his ore to a distant point and pay the freight and expenses and await the return.

At the risk of detaining the Senate in what I consider a matter of some importance, I am going to read a statement from the man in charge of the Helena (Mont.) office:

These offices are so vital to the mining industry in the West that it is nothing short of a crime to abolish them.

The great injury would come to the small miners, who bring their gold to these offices and within a short time receive payment for its value. They depend upon an immediate return from each clean-up to meet their pay rolls and purchase needed supplies. To force them to send their gold a long distance, with consequent high carrying charges, would mean that a number of small properties which are now conducted under decent profit would be compelled to shut down, throwing a large number of men out of employment, making a general stagnation in various small camps.

The mining development of this section of the country served by these offices is now entering upon a revival, which means a great deal to the country if it is properly fostered and aided instead of being hampered by attacks of this nature.

The uses of these offices to the miner are best shown by the records. Take the assay office in this city, which has been in existence since 1874. Since that time it has smelted and paid over $80,000,000 in gold bullion. The cost of the Government for handling this immense sum has been a little less than three-fourths of 1 per cent, or at the rate of about $15,000 a year.

We have not very many governmental institutions that disclose such a record.

The convenience of the local office has been of untold benefit. Eleven counties in the State of Montana sent to the Helena office last month gold bullion of the amount of $136,695.55. A very large percentage of the producers of this gold bullion is composed of small miners who bring to the office anywhere from 1 ounce to a thousand dollars, and they consequently would suffer the most if the office was abolished. When these small savings are melted and the value determined, the owner is at once given the cash for his gold. The cost for this service is about $2. If he were obliged to resort to a private refinery, the expense would be prohibitive.

This is a matter of vital importance to the entire West, not only to the people engaged in the industry but to the wholesale, mercantile, and manufacturing industries furnishing supplies and machinery.

If the men who are attempting to abolish these offices on the ground of economy would come here and make an honest investigation, they would not only cease this campaign but would inaugurate one for the enlargement and support of these assay offices.

I here call attention to a part of the report of the State mine inspector of Idaho.

Idaho's output of the vital money metal of the world has already aggregated $300,000,000, largely from surface placer deposits; and while our present output is not so large as formerly, it has shown a gradual increase for several years past, and is susceptible of a rapid advancement in the future from our extensive and partly demonstrated primary resources of gold ore.

As an example, we have a recently discovered ore deposit tributary to Boise, on which a report was made by one of the most conservative and capable authorities in the country, in which an investment of $2,500,000, largely for mill construction and development, was recommended, that proposed a milling capacity of 3,000 tons daily of ore that shows an average of $4.40 per ton, and on which tests indicate a recovery of $4 per ton, with a tonnage resource that promises to last for years at this rate of production.

This deal has not yet been consummated, but is likely to be perfected in the near future. This is only one of a dozen similar prospects of new gold supply which this State contains.

Millions of dollars have been invested in Alaskan and other ore deposits recently that average only $2 per ton by successful engineers and mining capitalists. The future gold supply of the world must come from ore of this class, and Idaho is in line to become one of the chief sources of supply; and its Federal assay office will stimulate this line of development, as it saves the risk of long bullion shipments and gives immediate and satisfactory results by the Federal indorsement of its business, which are conclusive, and amount in effect to stamping the coin eagle on the gold, and is highly appreciated by the producer, besides keeping him in closer touch with and respect for the Central Government.

A great deal of public money is annually spent in pure display and patriotic purpose by all governments, and it seems to me that it would be an unwise policy to eliminate such branches of Federal authority as these in the gold-producing regions of the Nation, as they are a good deal more than self-sustaining if the seigniorage on the silver bullion they separte from the gold is taken into consideration, and their specific purpose in assisting in the discovery and disposition of new gold and the consequent expansion of the basic credit of the Nation is well worth the paltry cost of their maintenance without taking into account their seigniorage profits.

But I want to put into the RECORD now this notice:

These assay offices are practically self-sustaining. They are of immense benefit to the people who are developing the great mountain regions of the Northwest; but they are peculiarly beneficial to a class of people who need them because of their limited means. I want further to put into the RECORD the statement that, believing that the maintenance of these assay offices is necessary to the interests of the West, I do not propose to consent, now or later, to their abandonment.

They are particularly beneficial to the man whom we know in the West as the prospector.

The prospector, Mr. President, is one of the unique, one of the most exceptional and most worthy of all those remarkable characters who have exploited and led the way for the development of the West. The West owes him a debt of gratitude which the West can never pay. Always poor, often homeless, self-reliant, hopeful, generous, and brave, he has been the solitary explorer of desert and mountain fastness; the man who has unlocked from its imprisoned silence the countless millions of what is now the world's wealth. He penetrates the most remote and inaccessible regions, defies hunger and storms alike, sleeps upon the mountain side or in improvised cabins, restlessly wanders and searches through weeks and months and years for nature's hidden and hoarded treasures. Oftentimes his search ends in poverty and distress and failure, sometimes in success. Without the prospector—this poor, isolated solitary wanderer—the great mining centers of the West would not exist. Without his uneasy, never-tiring efforts, millions of dollars now on their way to minister to the happiness and comfort of the race would never have been poured into the channels of business and commerce.

These assay offices scattered about near the mining camps are distinctly to his benefit and advantage. They encourage him to go forth and they enable him without great trouble and expense to get the benefit of his too often meager returns. Let us strike out some other expense, some extravagance which ministers to a fad or a fancy and leave these inducements for these hardy explorers.

The prospector, as everyone in the West knows, is being very rapidly deprived of his occupation, by reason of the fact that he is practically prohibited from going into a large portion of the country which he has heretofore traversed; and now the last incentive for his activity and for his energy is being removed by making it prohibitive upon his part to ship his ore and to get any return to justify his generally impecunious condition.

AMENDMENT TO FOOD AND DRUGS ACT.

Mr. OLIVER submitted the following conference report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R.

22526) to amend section 8 of an act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the matter stricken out, and the insertions made by said amendment, insert the following: "That reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this act"; and the Senate agree to the same.

(Matter stricken out printed in brackets.)

"An act (H. R. 22526) to amend section 8 of an act entitled 'An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,' approved June 30, 1906.

"*Be it enacted, etc.*, That section 8 of an act entitled 'An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,' approved June 30, 1906, be, and the same is hereby, amended by striking out the words 'Third. If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package,' and inserting in lieu thereof the following:

"'Third. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: *Provided, however*, That reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this act. (1) [That reasonable variations shall be permitted, and tolerances shall be established by rules and regulations made in accordance with the provisions of this act.] That the Secretary of Agriculture is authorized to establish rules and regulations permitting reasonable variations where in his judgment exactness is impracticable, and shall keep a record thereof: *Provided further*, That the provisions of this paragraph shall not apply to articles in packages or containers when the retail price of such article is 6 cents or less.'

"SEC. 2. That this act shall take effect and be in force from and after its passage: *Provided, however*, That no penalty of fine, imprisonment, or confiscation shall be enforced for any violation of its provisions as to domestic products prepared or foreign products imported prior to (2) [twelve] eighteen months after its passage."

GEORGE T. OLIVER,
R. M. LA FOLLETTE,
E. D. SMITH,
Managers on the part of the Senate.
W. C. ADAMSON,
J. HARRY COVINGTON,
F. C. STEVENS,
Managers on the part of the House.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. POMERENE. Mr. President, I regret very much that I am unable to give my approval to this conference report. It is with great reluctance that I say anything on the subject, but I do feel that it would be very much better to leave the subject where it is than to agree to this report. I want very briefly to present my reasons for this statement.

I recognize, as a matter of practical experience, that it is impossible to have exact weights and exact measures in package goods. On the other hand, we know full well that short weights and short measures in package goods are entirely too prevalent. It was the purpose of the House and of the Senate to devise some methods which would at the same time protect the consuming public and be fair and just to the manufacturer.

Under this bill it seems to me we are making no provision whatsoever which is going to protect the public, but we are giving to the manufacturers the whip hand and delegating the entire subject to the board provided for in the pure-food act.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Will the Senator from Ohio permit the Chair to ask a question of the Senator from Wyoming? The Senator from Wyoming had a conference report before the Senate, being considered, when the Senator from Pennsylvania offered another conference report. The Chair thought it was simply a perfunctory matter and would be agreed to. The Chair will have to assume that the Senator from Wyoming is yielding for this purpose.

Mr. WARREN. Mr. President, I was not requested to yield, but did yield to the report presented by the Senator from Pennsylvania [Mr. OLIVER]. I suggest that if the report is to be in any manner antagonized or delayed it should go into print and await the disposition of the one already before the Senate.

The PRESIDING OFFICER. As the Chair understands the situation, the Senator from Wyoming yielded for the presentation of a conference report?

Mr. WARREN. Yes.

The PRESIDING OFFICER. But not for its present consideration.

Mr. POMERENE. Mr. President, I was not aware of the parliamentary status, and I appreciate the fact that under the circumstances the Senator from Wyoming has the right of way.

Mr. OLIVER. I wish to say that I did not appreciate the parliamentary situation, or I should not have interposed my report ahead of the disposition of the one under consideration.

Mr. WARREN. The Senator from Nevada [Mr. NEWLANDS] has been seeking recognition from the Chair to speak to the conference report that was made some time ago, and is now in issue.

The PRESIDING OFFICER. Without objection, the conference report, offered by the Senator from Pennsylvania [Mr. OLIVER], will be received and will lie upon the table until called up by the Senator from Pennsylvania.

Mr. OLIVER. I wish to give notice that I will call it up immediately after action upon the conference report now pending.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate resumed the consideration of the conference report on the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

Mr. NEWLANDS obtained the floor.

Mr. ASHURST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Arizona?

Mr. NEWLANDS. Certainly; I yield.

Mr. ASHURST. I presume the Senator from Nevada and I are about to ask questions of the same import. I desire to ask the Senator in charge of the bill what has been the fate of the mint and the assay office in San Francisco?

Mr. WARREN. The mint and assay office at San Francisco is provided for, for a full year, as usual.

Mr. ASHURST. I view with considerable alarm——

Mr. NEWLANDS. May I ask, is there any provision that at the end of the year the operations of that office shall cease?

Mr. WARREN. Not at all. The mint at San Francisco, the one in Denver, and the one in Philadelphia are all provided for in the regular annual way.

Mr. NEWLANDS. I wish to supplement the remarks of the Senator from Idaho [Mr. BORAH] regarding the closing of certain assay offices in the mining regions; and I wish to address my remarks particularly to the dropping of the so-called Carson Mint, which really for years has been reduced to an assay office.

If I may have the attention of the Senator from Wyoming, I should like to ask him the reason for the difference between the treatment of the Carson Mint or assay office and that accorded to the other assay offices.

I observe, for instance, that the assay office at Boise City, Idaho, is extended in its operations or is provided for, so far as its operations are concerned, until January of next year, whilst the Carson City assay office is to close at the end of the fiscal year in July next.

Mr. WARREN. That difference arises, first—or, at least, that was the claim made by those we had to meet in the conference—from the fact that the business as a mint has been, or was some time since, transferred to these larger mints, so that now it is nil, or nearly so——

Mr. NEWLANDS. I refer only to its operations as an assay office.

Mr. WARREN. I am getting to that—and that as an assay office the amount of business done is very small; that we have already cut out the one at St. Louis and others apparently of equal importance. If the Senator wants to know the reason why I cut it out—if he wishes to put it that way—I will say

that I saved everything I could after several meetings had been held and some 30 days consumed. It was not with my mental consent, but only as a forced consent, to close the matter, that I agreed either to that going out, or to the others being cut down on the 1st of January.

Mr. NEWLANDS. But I wish to get at the special reason for allowing the operations of these small assay offices in the mining regions to continue until January 1 of next year, while the operations of the Carson Mint or assay office are cut short in July next.

Mr. WARREN. Because they were so much smaller than the others, and because that at Carson was a mint, and was closed because it was the last one of the small mints. That is the reason given by those we met in conference.

Mr. NEWLANDS. I have not the statistics before me, but I very much question the accuracy of the statement as to the business of the Carson Mint being less than that of some of these whose operations were continued until January next. To my mind it makes no difference as to whether its operations were less or not. It was entitled to the same treatment as the other assay offices in the West whose operations it is the purpose of the Appropriations Committee to bring to an end. The same considerations which led them to extend the life of these other assay offices until January next ought to have induced them to continue the life of the Carson City assay office for the same period.

It is a misnomer to call this a mint. During the flush times of the Comstock mine it was a mint of very large operations, but long since its minting operations were discontinued, and it has been running simply as an assay office. As an assay office it ought to stand upon the same basis as all the neighboring assay offices in the West. It is in the center of a very large and expanding mining region. Nevada's mineral product is increasing every year. I believe in the precious metals it stands second now among the States of the Union. That assay office is located at a point where it presents great conveniences to the prospector and to the small mining operator.

The action regarding these assay offices has not been taken by the committee charged with jurisdiction upon this subject, the Committee on Mines and Mining; but it has been taken charge of by the Appropriations Committee. That committee proposes absolutely to nullify a law that is now on the statute books.

Mr. WARREN. I hope the Senator will differentiate, and state what Appropriations Committee does that.

Mr. NEWLANDS. The Appropriations Committee of the House.

Mr. WARREN. Yes.

Mr. NEWLANDS. I intended, later on, to say that the Senate had been coerced by the House and compelled to violate existing law. Congress has made its solemn declaration in favor of an assay office at Carson City, just as it has at these other places, by a law passed by both bodies, and approved by the President. That law still remains upon the statute books, unrepealed and unamended. Without action by the appropriate committee, the Appropriations Committee of the House, assuming a jurisdiction that did not belong to it, regardful only of economy and not of wise economics, has practically nullified that law, has coerced the conferees of the Senate, and, if this report is adopted, will have coerced the Senate itself into subjection to its will.

Mr. President, it seems to me there must come a time when the usurpation of jurisdiction by the various Appropriations Committees in matters of general legislation shall cease, and this is a glaring instance of the injustice of their action.

For some time the Appropriations Committee of the House has been bent upon economy—economy in small matters; economy striking at small expenditures; economy in the small appropriations under the control of the general Appropriations Committee of each House. For, strange to say, whilst we have a general Appropriations Committee in each House, that Appropriations Committee has jurisdiction over only about one-fifth of the total expenditures of the Government. Thus, being unable to reach out for the major energies and the major operations of the Government, they have sought to carry out the party instructions regarding economy through a limitation of expenditures in a range covering only one-fifth of the total expenditures of the Government; and they have sought to do that by absolutely nullifying laws authorizing these expenditures—an act of gross usurpation of jurisdiction.

I can understand why there may be times when, upon appropriation bills, general legislation may be desirable, when that legislation meets the clear views of both Houses, and is simply a quick and convenient method of recording their will. But whenever one House is opposed to the action desired, the comity which controls with reference to such general legislation is at an end. Neither House has the right, against the will of the other, to insist upon such general legislation. But this is not general legislation. It is nullification of law.

Mr. WARREN. No, Mr. President; it is perhaps worse than that. It is a failure to appropriate for what the law calls for.

Mr. NEWLANDS. That is true; and hence it is a nullification of law—an absolute refusal by a committee of one House to obey the law.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Idaho?

Mr. NEWLANDS. Certainly.

Mr. BORAH. The Senator from Nevada is also aware of the fact, I presume, that the Secretary of the Treasury has been for a long time in favor of this movement?

Mr. NEWLANDS. Yes.

Mr. BORAH. And that it comes from a policy which seemed to have originated with the executive department?

Mr. NEWLANDS. What has the Secretary of the Treasury to do with mines and mining? The jurisdiction of the Secretary of the Treasury pertains to the fiscal affairs of the Government. In the pursuit of economy he proposes to strike at a great industry that is under the fostering care of the Government. Economy, as I said before, is one thing; economics is another. The Secretary of the Treasury has jurisdiction, possibly, in matters relating to economy. But the wise pursuit of economics means the development of the resources of the country. Economy means saving; economics means production or development of the resources of a country.

How is it with the great mining industry of this country? It stands upon a par with that of agriculture. And yet what do we do for agriculture? We are to-day expending, I believe, about $15,000,000 annually, perhaps more, in the study of all questions relating to agriculture and to the increase of production. We are entering even into the domain of education in order to promote agriculture. Is not mining an industry of equal importance? Does it not employ almost as many men?

Mr. President, an assay office is an essential incident to mining. It is of the highest importance that these Government officials should be established everywhere throughout the mining region, within convenient reach. The prospector and the small mine owner, who have not the means to employ, as have the large establishments, a great corps of scientific men, have a right to claim that a Government agency should be established which can give them a standard of value, and can tell them the truth with reference to the value of the ores submitted to their inspection. They are just as necessary to the mining industry as the various experiment stations and other instrumentalities established under the Agriculture Department for the promotion of agriculture. Yet what would be said if the Secretary of the Treasury, invading the jurisdiction of the Agriculture Department, as to-day he invades the jurisdiction of the Interior Department, should present to the Appropriations Committee of the House a proposal that by their action alone, nullifying the existing acts of Congress, salaries should be denied to all the experiment stations in the country?

Mr. President, I do not believe the total expenditures involved in all these small assay offices, scattered throughout the mining region, exceeds $50,000 annually. I will ask the Senator from Wyoming whether or not I am correct.

Mr. WARREN. I have not the figures before me, but the Senator is approximately correct. The amount may be as much as $65,000. Let me say to the Senator, if he will yield for a moment——

Mr. NEWLANDS. Certainly.

Mr. WARREN. I hope the Senator will do this: The Senator is one of our old and most valued Members and belongs to a party which very soon will have control of both Houses of Congress. I hope he will secure in the Cabinet of the next Executive men who understand western ways and the western country and who will have some compassion, if I may put it that way, or some good horse sense, to guide them in treating these western matters.

Mr. NEWLANDS. Mr. President, I hope we shall have men who will realize that there is a West as well as an East.

Mr. SMOOT. The Senator says the expense will amount to about $50,000. It does not amount to that when you take into consideration the receipts from the assay offices. It will not be much more than one-half that amount. The Secretary of the Treasury recommended in his 1912 report the abolishment of all assay offices, and it was stated on the floor of the House

by a Member that they would have been abolished if a combination of the Representatives of Western States had not been made.

The PRESIDENT pro tempore. The Chair admonishes the Senator that the rule does not permit a Senator to refer to what is done in the other House.

Mr. SMOOT. I have the RECORD here, and I am quoting nearly the exact language. It is a matter of history. I am not referring to the action of any Member of the House. I am stating what was really said and what can be found in the RECORD. When it came to the House this year some of the smaller offices were eliminated from the bill.

Mr. BORAH. In view of the suggestion made by the Senator from Wyoming to the Senator from Nevada that the incoming administration would take care of this situation, perhaps it would be better that the bill should go over, so as to give them a better chance to get at it.

Mr. NEWLANDS. The Senator from Wyoming is discreetly silent upon that subject.

Mr. WARREN. I do not believe that we ought to take out the neglect or the sins of omission or commission of one or two officials on a great many thousands of deserving employees. There would be caused not only trouble, but perhaps suffering. Whenever there is delay in the passage of an appropriation bill there are losses which occur, as they did last year when we had to extend the appropriations of the preceding year by joint resolution, covering nearly two months, and probably lost anywhere from $150,000 to $200,000 by that delay.

Mr. NEWLANDS. Mr. President, of course we recognize the responsibility that rests on the chairman of the Appropriations Committee and his unwillingness to have the bill fail simply because an injustice is done in a single particular; but those considerations do not address themselves to the Senate at large, and there is no reason why this bill should fail. Unfortunately, no motion can be presented approving the entire action of the conferees except with reference to this matter; and in order to reach this matter we will have to disagree to the report, and the bill will then go back to conference. The debate will show the cause of the disagreement, and then the conferees can address themselves to this single question and can remedy the injustice done, either by striking out all of the provisions limiting the appropriations for these offices or by placing them all upon the same plane, making the same appropriations for the Carson assay office and for the same period that they have made for the other assay offices, whose operations are extended until January of next year, while the operations of the Carson assay office will be ended in July next, thus giving the former the opportunity with the new Congress, Congress meeting in December next, to secure action which would relieve the other assay offices without reducing any of them meanwhile to extinction, as the action of this conference report does do with reference to the Carson assay office.

So I urge upon the Senate to prevent this glaring injustice, this discrimination as between the assay offices of the West, by disagreeing to this report; and if so be we will give the conferees an opportunity to accomplish more regarding this particular matter.

So far as I am concerned, I think the Senate should take decisive action and absolutely insist upon the appropriation bill following the law and not violating the law, and put an end to this system of three or four men upon the Appropriations Committee of the House practically coercing the action of Congress and compelling Congress itself to be a party in the violation of existing law.

I trust, Mr. President, that the Senate will vote against the motion offered.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

Mr. BORAH. If the Senator from Wyoming desires to address the Senate——

Mr. WARREN. I had only this to say, that having done the very best that can be done for the Senate as one of the managers I hope the Senate will approve of the report. I think there is no doubt but that we could get an agreement to cut out more of the bill by going back; but I do not believe the Senator from Nevada would ask us to do that, and I myself do not like to cut out something that I believe is deserving because I can not get something else that is also deserving, but which we were unable to retain.

I hope the report may be agreed to.

Mr. BORAH. Mr. President, I understand the question is simply a motion to accept the conference report.

The PRESIDENT pro tempore. The Senator is right.

Mr. BORAH. Upon that I ask for the yeas and nays.

Mr. SMOOT. Before the Senator asks for the yeas and nays I wish he would allow me just a moment.

Mr. BORAH. Very well; I will withhold the request.

Mr. NEWLANDS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nevada suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dillingham	Lodge	Shively
Borah	du Pont	McCumber	Smith, Ga.
Bradley	Foster	Martine, N. J.	Smith, Md.
Brandegee	Gallinger	Myers	Smith, S. C.
Briggs	Gardner	Oliver	Smoot
Bristow	Gore	Overman	Stephenson
Burton	Gronna	Page	Thomas
Clark, Wyo.	Guggenheim	Percy	Thornton
Crane	Johnston, Ala.	Perkins	Townsend
Crawford	Jones	Pomerene	Warren
Cullom	Kenyon	Richardson	Webb
Cummins	Lea	Root	Williams
Curtis	Lippitt	Sheppard	Works

The PRESIDENT pro tempore. On the call of the roll 52 Senators have answered to their names. A quorum of the Senate is present. The Senator from Idaho demands the yeas and nays on agreeing to the conference report.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The Senator from Utah will proceed.

Mr. SMOOT. Mr. President, I do not intend to occupy more than a few minutes. The plea that is made for the abolishment of certain assay offices is on the ground of economy. A year ago the Secretary of the Treasury asked that not only the assay offices which are to be abolished by this conference report, but that the assay office at Seattle and the mint at San Francisco should be discontinued as well upon the same plea of economy. But to-day we find that his recommendation is different, and he now wishes that the mint at San Francisco be maintained and that the assay office at Seattle be continued. The excuse given for retaining the assay office at Seattle is on account of the gold production in Alaska.

When we stop to think, in the United States to-day there is produced nearly $100,000,000 of gold and silver, most of the same produced in the States in which are located the assay offices recommended to be discontinued. The Senate provided an appropriation of $64,000 for the maintenance of the assay offices that will be abolished if this conference report is adopted. The receipts from these same assay offices are about one-half the amount appropriated. I do not believe the Senate desires the intermountain States to be deprived of an assay office for the mere pittance of $30,000.

That is all that there is involved in this question, and I denounce it as false economy. Their abolishment is not going to be a burden upon the man who owns a rich, well-developed mine. It will be a burden upon the small miner and poor prospector, the man who has no capital, the pioneer in the development of our precious-metal mining.

Mr. SMITH of South Carolina. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from South Carolina?

Mr. SMOOT. Certainly.

Mr. SMITH of South Carolina. I should like to ask the Senator from Utah a question. If the assay offices located in the mining regions should be abolished, where would the prospector have his ore assayed so as to know its value or whether it was workable?

Mr. SMOOT. He could perhaps find an assay office somewhere within 100 miles or 200 miles of the place where he is prospecting.

Mr. SMITH of South Carolina. Assay offices, then, are owned by private corporations or individuals. Can the Senator state what would be the difference in cost between an assay by a private corporation and the assay work by the Government?

Mr. SMOOT. The question of assaying ore is a small part of the difficulty. It is the small producer of ore who will suffer. At present he can send his gold and silver to the assay office and get his money at once, and is not compelled to send it to New York or San Francisco and wait for the return. This he is not able to do. He has to pay his employees and live upon what he receives from the metals produced, and he must get his returns as quickly as possible.

Mr. SMITH of South Carolina. Are there any charges made by the Government on individuals for the assay?

Mr. SMOOT. There are certain charges for assay, but the great advantage comes principally from the fact that the gold produced by the small miner can be settled and paid for at these assay offices, instead of his being compelled to send it to San

Francisco or New York, if the conference report is adopted; or he would have to sell it to private parties at a loss, who in turn would send it to New York and make his commission.

All the expense involved in this question, as I said, is not more than $30,000. This amount, if expended in maintaining the assay offices, will protect the small producer of gold and silver against the speculator who would buy it from him and then send it to some distant assay office.

Mr. President, it does seem to me that this is of so much importance to the great mining industry of the intermountain country, an industry putting millions and hundreds of millions of dollars of gold and silver into circulation, the very life blood of commerce, that the expenditure of a few thousand dollars should not be considered. It will have the effect of retarding the growth of that industry. I do not believe that the Congress of the United States fully comprehends it or they would not hesitate to appropriate the paltry sum of $30,000 to develop and encourage this great industry.

As the Senator from Nevada says, we are appropriating from fifteen to sixteen million dollars toward the education of the people along agricultural lines. I would not care if it was twice the amount. This is for a similar purpose, for the development of the great mining industry that has added so much to the wealth of this country.

I certainly trust the Senate will send this conference report back and see if the conferees on the part of the House will not recede from the disagreement of the House to this amendment, so that we shall have these offices retained.

[Mr. ASHURST addressed the Senate. See Appendix.]

Mr. OVERMAN. Mr. President, as a member of the conference committee I think perhaps I ought to say that this was one of the great questions that divided the conferees two years ago. The conferees on the part of the Senate held out until finally it was agreed to let the assay offices remain one more year. This year we had the fight again and we held out for weeks and weeks. There is one of these assay offices, I will say to the Senator, in my own State, and of course I was personally interested; but we could get no agreement at all unless we made the compromise, allowing the assay offices to remain until the 1st day of January, and then the next Congress can take such action as it may please. The Senate can send the bill back to the conferees if it desires to do so, but we have been notified that the House will never agree, and the bill will probably be lost. I do not know what the House will do.

Mr. SMITH of South Carolina. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from South Carolina?

Mr. OVERMAN. I yield.

Mr. SMITH of South Carolina. As this seems to be a matter of very great importance—and I think myself it is—I should like for the Senator from North Carolina, who is a member of the conference committee, to explain upon what ground the conferees on the part of the House seemed to oppose the retention of these assay offices. It seems that the arguments that have been made in favor of them are almost unanswerable, and I should like to hear, if there is any Senator who can give the information to the Senate, on what ground the House desires to abolish the assay offices.

Mr. OVERMAN. Their abolition is recommended by the Superintendent of the Mint and by the Secretary of the Treasury, and I believe——

Mr. SMITH of South Carolina. On what ground did the Secretary of the Treasury base his recommendation?

Mr. OVERMAN. On the ground that the offices do not pay; that they are expensive, and that there is no need for them.

Mr. BORAH. That may be the reason assigned by the Secretary of the Treasury, but——

Mr. SMITH of South Carolina. It does not make any difference what reason may be assigned; I want to know from those who are on the ground whether the reasons that have been given are true.

Mr. BORAH. No; they are not true. The facts can be had, and anyone who wishes to investigate will find that the statements are not true. The Secretary is simply in error; that is what I mean to say.

Mr. OVERMAN. I want to say that the conferees on the part of the Senate stood out as long as possible to sustain the action of the Senate, as it was their duty to do, but finally yielded after a long struggle on this matter.

Mr. BORAH. No one is criticizing the Senate conferees.

Mr. OVERMAN. I understand the Senator is hot; but I am giving him the position of this bill as it now stands. We were notified that the House of Representatives will never agree. If it is desired to send the report back, I am willing to have it sent back. As I have said, I am interested because one of these assay offices is almost right at my door.

Mr. BORAH. There is no reason why the Senate should, out of courtesy, yield when the action which has been taken is aimed at the destruction of a great industry.

Mr. OVERMAN. It was not out of courtesy that we yielded, but it was because we are compelled to have this great appropriation bill passed.

Mr. BORAH. We are not compelled to have a bill any more than the House of Representatives is compelled to have a bill, and inasmuch as the provision so seriously affects what all concede to be a great industry, there is no reason why we should yield. Let those who are in error do the yielding.

Mr. NEWLANDS. Let me suggest to the Senator from Idaho that it not only involves a great injury to that industry, but it also involves the sacrifice of a principle, for we have here a clear case where the Appropriations Committee of the other House propose to force upon the Senate, on a general appropriation bill, a nullification of existing law now authorizing these assay offices and providing for their operation without accomplishing in the usual way the repeal of that law. After this action is taken, the law authorizing the operation of these assay offices and fixing the salaries of the officials will still remain on the statute books. Thus, by this action, initiated in the House of Representatives and forced upon the Senate, the Senate being the victim of coercion, we are practically called upon to aid the House and the Secretary of the Treasury in nullifying existing law.

There is another thing I wish to say. This action does not involve in any degree any of the mints. It is true that the Carson City assay office is called a mint. That arises from the fact that it was at one time a great mint, but its operations have been gradually diminished until now it is simply an assay office, for the convenience of prospectors and small miners of that great region. So far as the minting operations are concerned, they are now concentrated at San Francisco, Denver, and Philadelphia. Whilst for a long time some of us from the West insisted that the operation of minting be not contracted to so small an area, yet that contention has been abandoned, and we are now simply endeavoring to save these assay offices, which are as much a convenience to the great mining industries of that region as are the agricultural experiment stations to the farmers of the country.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Ohio?

Mr. NEWLANDS. Yes.

Mr. POMERENE. Can the Senator give us an estimate as to the additional expense which would be incurred by the miners of that section if these assay offices were discontinued?

Mr. NEWLANDS. No; I can not. They would be subjected to the charges of private assayers, and it has been suggested that they would be compelled to resort to the great smelting organizations in that region and be compelled to submit to what the smelting organizations said their ores contained, for, recollect, we are making a scientific inquiry here, through competent men, as to the value of the ores of small operators. The big men have, of course, scientific men to attend to all such matters, but the Government is now pursuing various activities of this kind in various ways, having to-day a Bureau of Standards right here in Washington devoted to the question of establishing standards, and the Government itself is looked upon——

Mr. OVERMAN. With the exception——

The PRESIDENT pro tempore. Senators will address the Chair and get permission to interrupt. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Yes.

Mr. OVERMAN. I want to state that the assay offices are not abolished.

Mr. NEWLANDS. That is what I say; they are not abolished, but their operations are abolished.

Mr. OVERMAN. The appropriation is made for them until the 1st of next January. That was a compromise. Of course, the conferees wanted to except the Carson assay office.

Mr. NEWLANDS. Let me say to the Senator that a glaring injustice was done to the Carson assay office, miscalled a mint, for its salaries were only continued until July next, and it will not be until next December that we will have another opportunity to act on the matter.

Mr. OVERMAN. A compromise had to be made, and the compromise was that we would provide appropriations to the 1st of July and the 1st of January and then let Congress take 1st of July and the 1st of January and then let Congress take are appropriated for just as they have always been except that

we have only appropriated for them until July and to January next.

Mr. NEWLANDS. There is no appropriation whatever, if the Senator will permit me, made for the Carson assay office. The Carson assay office appropriation was made last year and runs only until July next, so that there is no appropriation in this bill whatever for that office; and as to the other assay offices, the appropriation is made for only one-half of the year, and not for another year, and that notwithstanding the fact that the law authorizing these assay offices and providing for their operation is still on the statute books and will remain upon the statute books after their officials are discharged.

Mr. KENYON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Iowa?

Mr. KENYON. I thought the Senator had given up the floor.

Mr. NEWLANDS. Well, I will yield the floor.

Mr. KENYON. I rise to offer a privileged motion under clause 6 of Rule VII. I move that the Senate proceed to the consideration of the veto message of the President of the United States on Senate bill No. 4043, and in connection with that I call the attention of the Chair to clause 6 of Rule VII, on page 10.

Mr. WARREN. Mr. President, we are already considering a privileged question, which I hope will soon be determined.

Mr. NEWLANDS. I will ask the Senator from Iowa whether he will not permit a vote now on the conference report? I imagine the discussion is ended, and the question is upon agreeing to that report.

Mr. KENYON. I will withhold the motion if there can be a vote without further debate.

Mr. NEWLANDS. I have no doubt there can be.

Mr. WARREN. The yeas and nays have already been ordered.

Mr. JONES. I want just a minute or two.

Mr. KENYON. If there is to be no debate, Mr. President, I will withhold the motion temporarily, but if debate is to ensue I will proceed.

Mr. JONES. I want a minute or two on this matter. I do not care to prevent the Senator from Iowa from proceeding, but I simply want to say that I desire to discuss this matter briefly.

Mr. NEWLANDS. I understand, Mr. President, that the discussion——

Mr. KENYON. I insist upon my motion, if there is to be debate.

Mr. NEWLANDS. I understand that discussion has ended and we are ready for a vote. When the conference report is disposed of, then, of course, the Senator from Iowa can proceed.

Mr. KENYON. I will be very glad to withhold the motion, if the Senate is ready to vote; but the Senator from Washington announces that he desires to discuss the matter, and hence we are not ready for a vote, and I will ask that my motion be put.

Mr. NEWLANDS. I supposed that the Senator from Washington desired to speak upon the question which the Senator from Iowa desires to bring up.

Mr. KENYON. Mr. President, I will withhold my motion until the conclusion of the remarks of the Senator from Washington.

Mr. JONES. Mr. President, I merely want a minute or two, and I will not delay the matter further. I desire to say that the assay office in my State is cared for in this bill, but I have not lost my interest in the other assay offices throughout that great section of the country, and I think the conference report should be disagreed to.

As has been said, these assay offices are very much to the miners and prospectors what the agricultural experiment stations are to the poor farmers, and the Senate should not adopt the proposition to abolish them. The subject has never been considered by the committees of the Senate or the House having jurisdiction over the matter; it has not been referred to any such committee, and there has been no bill on this question reported by any such committee. This simply comes here on an appropriation bill, and we can not escape our responsibility by saying that it has been suggested by the executive department. If we adopt the report, this action becomes our legislative act, and we are responsible for it. I hope the Senate will reject the conference report.

The PRESIDENT pro tempore. Will the Senator from Iowa permit a vote to be taken on the conference report, on which the yeas and nays have been ordered?

Mr. THOMAS. Mr. President——

Mr. LODGE. The question is on agreeing to the conference report, is it not?

The PRESIDENT pro tempore. It is; but the Senator from Colorado addressed the Chair. [A pause.] The question is on agreeing to the conference report, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In the absence of that Senator I withhold my vote. Otherwise I should vote "nay."

The roll call having been concluded, the result was announced—yeas 15, nays 55, as follows:

YEAS—15.

Brandegee	Curtis	McCumber	Warren
Burnham	du Pont	Overman	Wetmore
Burton	Gallinger	Tillman	Williams
Clarke, Ark.	Johnston, Ala.	Townsend	

NAYS—55.

Ashurst	Dixon	Myers	Sheppard
Borah	Fall	Newlands	Shively
Bradley	Gardner	O'Gorman	Smith, Ariz.
Brady	Gronna	Oliver	Smith, Ga.
Bristow	Guggenheim	Owen	Smith, S. C.
Brown	Hitchcock	Page	Smoot
Bryan	Jones	Paynter	Stephenson
Catron	Kenyon	Percy	Sutherland
Chilton	Kern	Perkins	Swanson
Crawford	Lea	Pittman	Thomas
Culberson	Lodge	Poindexter	Thornton
Cullom	McLean	Pomerene	Webb
Cummins	Martin, Va.	Richardson	Works
Dillingham	Martine, N. J.	Root	

NOT VOTING—25.

Bacon	Crane	Kavanaugh	Smith, Md.
Bankhead	Fletcher	La Follette	Smith, Mich.
Bourne	Foster	Lippitt	Stone
Briggs	Gamble	Nelson	Watson
Chamberlain	Gore	Penrose	
Clapp	Jackson	Reed	
Clark, Wyo.	Johnson, Me.	Simmons	

So the conference report was rejected.

Mr. WARREN. I move that the Senate further insist upon its amendments and request a further conference with the House on the disagreeing votes, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. WARREN, Mr. WETMORE, and Mr. OVERMAN conferees on the part of the Senate.

INTERSTATE SHIPMENT OF LIQUORS—VETO MESSAGE.

The PRESIDENT pro tempore. The Chair lays before the Senate the following message from the President of the United States, which will be read:

The message is as follows:

To the Senate:

I return herewith, without my signature, S. 4043.

The bill, including title and enacting clause, is as follows:

An act divesting intoxicating liquors of their interstate character in certain cases.

Be it enacted, etc., That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to, but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to, but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to, but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package, or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to, but subject to the jurisdiction thereof, is hereby prohibited.

After giving this proposed enactment full consideration, I believe it to be a violation of the interstate commerce clause of the Constitution, in that it is in substance and effect a delegation by Congress to the States of the power of regulating interstate commerce in liquors which is vested exclusively in Congress.

The most recent expression of the Supreme Court on the general subject is found in the case of the Louisville & Nashville Railroad Co. *v.* F. W. Cook Brewing Co. (223 U. S., 70). This was a bill in equity to enjoin the railroad company from refusing to accept the product of the brewing company at Evansville, Ind., where it was located, for transportation to local-option or so-called "dry communities" in Kentucky.

In delivering the judgment of the Supreme Court, affirming the action of the circuit court in awarding the injunction asked, Mr. Justice Lurton said:

By a long line of decisions, beginning even prior to Leisy *v.* Hardin (135 U. S., 100), it has been indisputably determined:

a. That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.

b. That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.

c. That until such transportation is concluded by delivery to the consignee, such commodities do not become subject to State regulation, restraining their sale or disposition.

The Wilson Act, which subjects such liquors to State regulation although still in the original packages, does not apply before actual delivery to such consignee where the shipment is interstate. Some of the many later cases in which these matters have been so determined and the Wilson Act construed are: Rhodes *v.* Iowa (170 U. S., 412); Vance *v.* Vandercook Co. (170 U. S., 438); Heyman *v.* Southern Railway (203 U. S., 270); Adams Express Co. *v.* Kentucky (214 U. S., 218).

Valid as the Kentucky legislation undoubtedly was as a regulation in respect to intrastate shipments of such articles, it was most obviously never an effective enactment in so far as is undertook to regulate interstate shipments to dry points. Pending this very litigation, the Kentucky Court of Appeals, upon the authority of the line of cases above cited, reached the same conclusion, C. & N. O. Ry. *v.* Kentucky (126 Ky., 563).

The obligation of the railroad company to conform to the requirements of the Kentucky law, so far as that law prohibited intrastate shipments, is clear, and to this extent its circular notification was commendable. But the duty of this company, as an interstate common carrier for hire, to receive for transportation to consignees upon its line in Kentucky from consignors in other States any commodity which is an ordinary subject of interstate commerce, and such transportation could not be prohibited by any law of the State of such consignee, inasmuch as any such law would be an unlawful regulation of interstate commerce not authorized by the police power of the State.

The Wilson Act, referred to by Judge Lurton, provides as follows:

That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory, enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

The Supreme Court, in Rhodes *v.* Iowa (170 U. S., 423), construed this language to mean that the legislative authority of the respective States should attach to intoxicating liquors coming into the States by an interstate shipment, only after the consummation of the shipment, but before the sale of the merchandise. The court held that the right of the consignee to sell before delivery was a mere incident to the shipment, and that it was within the power of Congress to submit the incidental power to sell to the dominion of State authority.

The court declined to express an opinion as to the authority of Congress under its power to regulate commerce to delegate to the States the right to forbid the transportation of merchandise from one State to another. It must be admitted, therefore, that upon the exact point in question, to wit, the right of the Congress to delegate to States the power to forbid the shipment of intoxicating liquors from another State into its jurisdiction, the Supreme Court has declined to express an opinion, though it is difficult to read the language of the court in the case of Rhodes *v.* Iowa (170 U. S., 412); Vance *v.* Vandercook Co. (170 U. S., 438), and of Mr. Justice Catron in the License cases (5 Howard, 504, 599) quoted with approval by Mr. Justice Matthews in Bowman *v.* Railway Co. (125 U. S., 465, 489) without inferring that such a delegation of power would be beyond the power of Congress.

One of the main purposes of the union of the States under the Constitution was to relieve the commerce between the States of the burdens which local State jealousies and purposes had in the past imposed upon it; and the interstate-commerce clause in the Constitution was one of the chief reasons for its adoption. The power was there conferred upon Congress. Now, if to the discretion of Congress is committed the question whether in interstate commerce we shall return to the old methods prevailing before the Constitution or not, it would seem to be conferring upon Congress the power to amend the Constitution by ignoring or striking out one of its most important provisions. It was certainly intended by that clause to secure uniformity in the regulation of commerce between the States. To suspend that purpose and to permit the States to exercise their old authority before they became States, to interfere with commerce between them and their neighbors, is to defeat the constitutional purpose.

This conclusion is sustained in a very careful report prepared by the subcommittee of the Judiciary Committee of the Senate, of which then Senator Knox was chairman. The conclusions stated were as follows:

First. Interstate shipments are not completed until they reach the consignee.

Second. An interruption or interference with interstate shipments before they reach the consignee constitutes a regulation of commerce.

Third. Regulating interstate shipments is an exclusive function of Congress.

Fourth. Congress can not delegate any part of its exclusive power to the States.

Fifth. To remove the bar or impediment of exclusive Federal power which shuts the States out of the Federal domain is to permit or sanction a State law in violation of the Constitution and in effect to delegate a Federal function to the States.

I am quite aware that the purpose of this act is to enable the States more completely to regulate the sale and use of intoxicating liquors in their respective jurisdictions, and that a very large part of the good people of each of such States is strongly in favor of any law which will permit the State to do this, and therefore that the necessity for maintaining the constitutional restrictions in such cases with reference to interstate commerce is not looked upon with popular favor in those States. Recognizing this popular wish, Congress has already gone to the extent of subjecting the original package in which the liquor is imported to the laws of the State as soon as it is delivered into the hands of the consignee. It has regulated the commerce in liquors by forbidding, under sections 238, 239, and 240 of the Penal Code (1) delivery of intoxicating liquor to any person other than the consignee, unless upon his written order, or to any fictitious person; (2) the collection of the purchase price of intoxicating liquor by any common carrier acting as agent of buyer or seller; (3) the shipment of any liquor unless labeled on the outside to show name of consignee, nature of contents, and quantity contained. These restrictions must greatly aid the State authorities in their enforcement of their liquor laws.

If Congress, however, may in addition entirely suspend the operation of the interstate-commerce clause upon a lawful subject of interstate commerce and turn the regulation of interstate commerce over to the States in respect to it, it is difficult to see how it may not suspend interstate commerce in respect to every subject of commerce wherever the police power of the State can be exercised to hinder or obstruct that commerce. I can not think that the framers of the Constitution, or that the people who adopted it, had in mind for a moment that Congress could thus nullify the operation of a clause whose useful effect was deemed so important and which in fact has contributed so much to the solidarity of the Nation and the prosperity that has followed unhampered, nation-wide trade.

But it is said that this is a question with which the Executive or Members of Congress should not burden themselves to consider or decide. It is said that it should be left to the Supreme Court to say whether this proposed act violates the Constitution. I dissent utterly from this proposition. The oath which the Chief Executive takes, and which each Member of Congress takes, does not bind him any less sacredly to observe the Constitution than the oaths which the Justices of the Supreme Court take. It is questionable whether the doubtful constitutionality of a bill ought not to furnish a greater reason for voting against the bill, or vetoing it, than for the court to hold it to be invalid. The court will only declare a law invalid where its unconstitutionality is clear, while the lawmaker may very well hesitate to vote for a bill if of doubtful constitutionality because of the wisdom of keeping clearly within the fundamental law. The custom of legislators and executives having any legislative function to remit to the courts entire and ultimate responsibility as to the constitutionality of the measures which they take part in passing is an abuse which tends to put the court constantly in opposition to the legislature and executive, and, indeed, to the popular supporters of unconstitutional laws. If, however, the legislators and the executives had attempted to do their duty this burden of popular disapproval would have been lifted from the courts, or at least considerably lessened.

For these reasons, and in spite of the popular approval of this bill, I have not felt justified in signing it, because I feel that under principles of proper constitutional construction it violates the interstate-commerce clause of our fundamental law.

I am sustained in the view I have taken by the judgment and opinion of Attorney General Wickersham, which contains an elaborate discussion of the question and considers in detail the issues which have been raised in the congressional debates and elsewhere.

WM. H. TAFT.

THE WHITE HOUSE, *February 28, 1913.*

DEPARTMENT OF JUSTICE,
Washington, February 28, 1913.

The PRESIDENT.

SIR: I have examined with as much care as the very limited time at my disposal would permit the bill S. 4043, entitled "An act divesting intoxicating liquors of their interstate character in certain cases," which was passed by both Houses of Congress and presented to you on February 17th instant. This bill consists of but one section, which is as follows:

"*Be it enacted, etc.*, That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind from one State, Territory, or District of the United States or place noncontiguous to, but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States or place noncontiguous to, but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States or place noncontiguous to,

but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to, but subject to the jurisdiction thereof, is hereby prohibited."

Senator KENYON, the sponsor of the bill during debate, said "that honest lawyers, frank with themselves, must concede that the questions involved are exceedingly troublesome, but inasmuch as the Supreme Court has expressly left open the question it would seem that this was a proper case to place the matter squarely before them in order that a question of great importance might be determined." Whether or not the doubts concerning the constitutionality of this measure thus frankly expressed are so well founded as to require you to disapprove it or are of a character which, in view of the meritorious purpose of the legislation, you should disregard, leaving them, as Senator KENYON suggests, to be dealt with by the courts, is, I take it, the matter for your immediate consideration and determination.

In the Senate, Senators ROOT and SUTHERLAND, among others, expressed in careful and forceful reasoning their conviction that the act was wholly beyond the constitutional powers of Congress, in which view Representative BRANTLEY and other lawyers of high standing in the House of Representatives concurred.

Traffic in liquor has been the subject of much discussion both in Congress and before the courts of the United States ever since the decision in Leisy *v.* Hardin (135 U. S., 100), which held that a statute of a State prohibiting the sale of any intoxicating liquors except for pharmaceutical, medicinal, chemical, or sacramental purposes, and under a license from a county court of the State, was, as applied to a sale by the importer into the State, and in the original packages or kegs, unbroken and unopened, of such liquors, manufactured in and brought from another State, unconstitutional and void, as repugnant to the clause of the Constitution granting to Congress the power to regulate commerce with foreign nations and among the several States.

This case was decided April 28, 1890, and on August 8, following, Congress passed an act known as the Wilson Act (26 Stats., 315, c. 728) providing:

"that all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise." That act was sustained in the case of In re Rahrer (140 U. S., 555), as a valid exercise of the power of Congress to regulate commerce among the States.

In delivering the opinion of the court, Fuller, C. J., said:

The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraint. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States.

* * * * * * *

Unquestionably, fermented, distilled, or other intoxicating liquors or liquids are subjects of commercial intercourse, exchange, barter, and traffic between nation and nation and between State and State like any other commodity in which a right to traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts. Nevertheless, it has been often held that State legislation which prohibits the manufacture of spiritous, malt, vinous, fermented, or other intoxicating liquors within the limits of a State, to be there sold or bartered for general use as a beverage, does not necessarily infringe any right, privilege, or immunity secured by the Constitution of the United States or by the amendments thereto.

He referred to the language of Mr. Justice Catron in the License Cases (5 How., 599), to the effect that if from its nature an article did not belong to commerce, "or if its condition, from putresence, or other cause, is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. * * * That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State; and that which does belong to commerce is within the jurisdiction of the United States."

Coming to consider whether or not, as declared by Congress, imported liquors shall, upon arrival in a State, fall within the category of domestic articles of a similar nature, the Chief Justice continued as follows:

"By the first clause of section 10 of Article I of the Constitution, certain powers are enumerated which the States are forbidden to exercise in any event; and by clauses 2 and 3, certain others, which may be exercised with the consent of Congress. As to those in the first class, Congress can not relieve from the positive restriction imposed. As to those in the second, their exercise may be authorized; and they include the collection of the revenue from imposts and duties on imports and exports, by State enactments, subject to the revision and control of Congress; and a tonnage duty, to the exaction of which only the consent of Congress is required. Beyond this, Congress is not empowered to enable the State to go in this direction. Nor can Congress transfer legislative powers to a State, nor sanction a State law in violation of the Constitution; and if it can adopt a State law as its own, it must be one that it would be competent for it to enact itself, and not a law passed in the exercise of the police power. (Cooley *v.* Port Wardens of Philadelphia, 12 How., 299; Gunn *v.* Barry, 15 Wall., 610, 623; United States *v.* Dewitt, 9 Wall., 41.)"

But, he held, Congress can, in the exercise of the discretion reposed in it, conclude that the common interests do not require entire freedom in the traffic of ardent spirits, and so concluding it had enacted the Wilson law.

"In so doing, Congress has not attempted to delegate the power to regulate commerce, or to exercise any power reserved to the States or to grant a power not possessed by the States, or to adopt State laws. It has taken its own course and made its own regulation, applying to these subjects of interstate commerce one common rule, whose uniformity is not affected by variations in State laws in dealing with such property."

The Chief Justice added that he perceived no reason why, if Congress chose to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it was not within its competency so to do, and accordingly held that the act of 1890 which withdrew the control of Congress over the articles in question upon their arrival within the State into which they were shipped was a constitutional exercise of power.

In Rhodes *v.* Iowa (170 U. S., 412) the court was called upon to construe the meaning of the words "upon such arrival in such State or Territory" in the Wilson Act, it being contended that these words meant on arrival at the State line. But this interpretation was rejected, and it was held that, properly construed, the words meant to withdraw the Federal control when the goods had arrived at the point of destination and were delivered there to the consignee. "Undoubtedly," the court said—

"The purpose of the act was to enable the laws of the several States to control the character of merchandise therein enumerated at an earlier date than would have been otherwise the case, but it is equally unquestionable that the act of Congress manifests no purpose to confer upon the States the power to give their statutes an extraterritorial operation so as to subject persons and property beyond their borders to the restraints of their laws. If the act of Congress be construed as reaching the contract for interstate shipment made in another State, the necessary effect must be to give to the laws of the several States extraterritorial operation, for, as held in the Bowman case (Bowman *v.* Chicago & C. R. R. Co., 125 U. S., 465), the inevitable consequence of allowing a State law to forbid interstate shipments of merchandise would be to destroy the right to contract beyond the limits of the State for such shipments. If the construction claimed be upheld, it would be in the power of each State to compel every interstate commerce train to stop before crossing its borders and discharge its freight, lest by crossing the line it might carry within the State merchandise of the character named covered by the inhibitions of a State statute." *

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"Whilst it is true that the right to sell free from State interference interstate-commerce merchandise was held in Leisy *v.* Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State in its nature was usually subject to the control of the legislative authority of the State. On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect, and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State. The purpose of Congress to submit the incidental power to sell to the dominion of State authority should not, without the clearest implication, be held to imply the purpose of subjecting to State laws a contract which in its very object and nature was not susceptible of such regulation even if the constitutional right to do so existed, as to which no opinion is expressed."

The court quoted from the opinion in the Bowman case, a passage which pointed out the confusion which would arise if the laws of the several States were allowed to have an extraterritorial operation, saying that uniformity in the regulations by which a carrier is to be governed from one end of his route to the other is a necessity in his business, and that to secure it Congress, which is untrammeled by State lines, has been invested with the exclusive legislative power of determining what such regulation shall be; and added:

"And it was doubtless this construction which caused the court to observe, in the opinion In re Rahrer (140 U. S., 545, 552), that the act of Congress 'divests them (objects of interstate-commerce shipment) of that character at an earlier period of time than would otherwise be the case.' We think that in interpreting the statute by the light of all its provisions it was not intended to and did not cause the power of the State to attach to an interstate-commerce shipment whilst the merchandise was in transit under such shipment and until its arrival at the point of destination and delivery there to the consignee, *and of course this conclusion renders it entirely unnecessary to consider whether, if the act of Congress had submitted the right to make interstate-commerce shipments to State control, it would be repugnant to the Constitution.*"

The bill presented for your consideration now squarely presents the question put in the clause above italicized, for the bill avowedly and clearly proposes to submit the right to make interstate-commerce shipments of spirituous, vinous, malt, fermented, or other intoxicating liquor of any kind to State control. Senator ROOT said during the discussion over it:

"What is proposed in this bill is that the Government of the United States shall hand over to the government of each State the right to say how and when and under what conditions interstate commerce in these articles of commerce, so treated and regarded by all the States, shall be had." (Res., p. 2931.)

Yet, in Vance *v.* Vandercook (170 U. S., 438–444) the court in passing on the constitutionality of the South Carolina dispensary act said that the proposition was well established "that the right to send liquors from one State into another, and the act of sending the same, is interstate commerce, the regulation whereof has been committed by the Constitution of the United States to Congress, and, hence, that a State law which denies such a right, or substantially interferes with or hampers the same, *is in conflict with the Constitution of the United States.*"

In discussing the constitutionality of that provision in the act of 1890 which withdrew the protection of Congress from the incidental right of the importer into a State of spirituous or vinous liquors to sell the same in the original package, the court advanced as a conclusive answer to one of the contentions made against its constitutionality, "that the interstate-commerce clause of the Constitution guarantees the right to ship merchandise from one State into another, and protects it until the termination of the shipment by delivery at the place of consignment, and this right is wholly unaffected by the act of Congress which allows State authority to attach to the original package *before* sale but only *after* delivery."

"It follows," said Mr. Justice White in delivering the opinion of the court, "that under the Constitution of the United States every resident of South Carolina is free to receive for his own use liquor from other States, and that the inhibitions of a State statute do not operate to prevent liquors from other States from being shipped into such State, on the order of a resident for his use. * * * To hold the law unconstitutional because it prevents such sale in the original package would be to decide that the State law was unconstitutional because it exerted a power which the State had a lawful right to exercise. Indeed, the law of the State here under review does not purport to

forbid the shipment into the State from other States of intoxicating liquors for the use of a resident, and if it did so, it would, upon principle and under the ruling in Scott *v.* Donald, to that extent be in conflict with the Constitution of the United States.

"It is argued that the foregoing considerations are inapplicable, since the State law now before us, whilst it recognizes the right of residents of other States to ship liquor into South Carolina for the use of residents therein, attaches to the exercise of that right such restrictions as virtually destroy it.

"But the right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States, and does not rest on the grant of the State law. Either the conditions attached by the State law unlawfully restrain the right or they do not; if they do—and we shall hereafter examine this contention—then they are void. If they do not, then there is no lawful ground of complaint on the subject."

Again, analyzing the effect of the State statute, which in substance prohibited the importation of liquor for one's own use without first obtaining a certificate from a State official, the court said:

"The right of the citizen of another State to avail himself of interstate commerce can not be held to be subject to the issuing of a certificate by an officer of the State of South Carolina without admitting the power of that officer to control the exercise of the right. But the right arises from the Constitution of the United States; it exists wholly independent of the will of either the law-making or the executive power of the State; it takes its origin outside of the State of South Carolina and finds its support in the Constitution of the United States. Whether or not it may be exercised depends solely upon the will of the person making the shipment and can not be in advance controlled or limited by the action of the State in any department of its government."

These foregoing decisions were applied in the case of American Express Co. *v.* Iowa (196 U. S., 147), where it was held that a package of intoxicating liquor received by a company in one State to be carried to a purchaser in another State, c. o. d., is interstate commerce and is under the protection of the commerce clause of the Constitution and may not be confiscated under the prohibitive liquor laws of the State.

In Pabst Brewing Co. *v.* Crenshaw (198 U. S., 27) it was held that a State statute which operates upon beer and malt liquors shipped from other States after their arrival and while held for sale and consumption within the State was not an interference with interstate commerce in view of the provisions of the Wilson act of 1890. The purpose of that act, said Mr. Justice White—

"was to make liquor after its arrival a domestic product and to confer power upon the States to deal with it accordingly. The police power is hence to be measured by the right of a State to control or regulate domestic products, a State and not a Federal question as respects the commerce clause of the Constitution.

* * * * * * *

"To decide that an exertion by a State of its power to regulate the sale of malt liquors manufactured within the State was an exercise of its police authority, and yet to say that the same, when applied to liquor shipped into the State from other States, after delivery was not an exertion of the police power, would be to destroy the Wilson Act and frustrate the very object which it was intended to accomplish, and besides would overrule the previous decisions of this court upholding and enforcing that statute."

In Heyman *v.* Southern Railway Co. (203 U. S., 270) it was held that the word "arrival" as used in the Wilson Act means delivery of the goods to the consignee, and not merely reaching their destination; and that the power of the State over intoxicating liquors from other States in original packages after delivery and before sale, given by the Wilson law, does not attach before notice and expiration of a reasonable time for the consignee to receive the goods from the carrier; and that this rule is not affected by the fact that under the State law the carrier's liability as such may have ceased and become that of a warehouseman.

"As the general principle is that goods moving in interstate commerce cease to be such commerce only after delivery and sale in the original package, and as the settled rule is that the Wilson law was not an abdication of the power of Congress to regulate interstate commerce, since that law simply affects an incident of such commerce by allowing the State power to attach after delivery and before sale, we are not concerned," said Mr. Justice White, "with whether, under the law of any particular State, the liability of a railroad company as carrier ceases and becomes that of a warehouseman on the goods reaching their ultimate destination, before notice and before the expiration of a reasonable time for the consignee to receive the goods from the carrier. For, whatever may be the divergent legal rules in the several States concerning the precise time when the liability of a carrier as such in respect to the carriage of goods ends, they can not affect the general principle as to when an interstate shipment ceases to be under the protection of the commerce clause of the Constitution, and thereby comes under the control of the State authority."

In Delamater *v.* South Dakota (205 U. S., 93) it was held that since the enactment of the Wilson law the owner of intoxicating liquor in one State can not, under the commerce clause of the Constitution, go himself or send his agent into another State, and, in defiance of its laws, carry on the business of soliciting proposals for the purchase of such liquors; that although a State may not forbid a resident thereof from ordering for his own use intoxicating liquor from another State, it may forbid the carrying on within its borders of the business of soliciting orders for such liquor, although such orders may only contemplate a contract resulting from final acceptance in another State. Mr. Justice White said:

"It is settled by a line of decisions of this court, noted in the margin, that the purpose of the Wilson Act, as a regulation by Congress of interstate commerce, was to allow the States, as to intoxicating liquors, when the subject of such commerce, to exert ampler power than could have been exercised before the enactment of the statute. In other words, that Congress, sedulous to prevent its exclusive right to regulate commerce from interfering with the power of the States over intoxicating liquor, by the Wilson Act adopted a special rule enabling the States to extend their authority as to such liquor shipped from other States before it became commingled with the mass of other property in the State by a sale in the original package."

Sections 238, 239, and 240 of the Penal Code forbid under penalty (1) delivery of intoxicating liquor to any person other than the consignee, unless upon his written order, or to any fictitious person; (2) the collection of the purchase price of intoxicating liquor by any common carrier, or the acting of such as agent of buyer or seller; (3) the shipment of any liquor unless labeled on the outside to show name of consignee, nature of contents, and quantity contained.

Senator SUTHERLAND said of this legislation that it gives the State "full power to seize and confiscate liquor after it reaches the hands of the consignee, and the sections of the penal code, by requiring delivery to an actual consignee and the plain marking of every package with the name of consignee and the quantity and kind of liquor contained, furnishes information which will enable the State to act." (Rec., 2919.)

The bill under consideration goes beyond all this. It proposes to make unlawful the transportation of liquor from one State to another where it "is intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of" the law of the State, etc., into which it is shipped. If, therefore, the law of any State shall prohibit absolutely the possession or use of liquor within that State, then under this bill the mere introduction of liquor across the boundary line of the State would be conclusive evidence of an intention to violate that law, and would subject the carrier and all persons having any interest in the liquor to penalties imposed by the State law.

On the other hand, in those States where the use of liquor is permitted to any degree under restrictions, the carrier and all persons having any interest in the liquor would, from the moment of its introduction into the State, be liable to the penalties imposed by the State law if the evidence should warrant the inference, that any one of them intended to use the liquor so taken into the State in any manner which should violate the State law. This, of course, would operate to give to the statutes of the State an extraterritorial operation so as to subject persons and property without the State to the restraint of these laws by preventing them from making contracts of sale and delivery which would be lawful in the State where made, but which could not be enforced by delivery within the State of the purchaser if such delivery were prohibited by the laws of such State. If, as was said in Rhodes *v.* Iowa (supra):

"The right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect and imparted in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State," this fundamental right, which, as shown in the above cases, is protected by the Constitution, and subjected only to the exclusive power of regulation vested in Congress, would be entirely destroyed by this legislation. This was the principal ground upon which Senator ROOT based his objection to the bill.

"In the second place," he said, "the provision undertakes to invalidate the contracts of the people of each State by reason of the intention of some one else in regard to future conduct under the laws of other States. The laws of a given State require a common carrier to accept and carry an invoice of goods. The contract is obligatory. The contract is made. But under this provision, if it is effective at all, the contract is invalidated because some one besides the carrier, and it may be some one besides the shipper, has an undisclosed intention to violate, after the transaction of transportation is over, an unknown law in a different State." (Rec., 2930.)

"What is proposed in this bill," he added, "is that the Government of the United States shall hand over to the government of each State the right to say how and when and under what conditions interstate commerce in these articles of commerce, so treated and regarded by all the States, shall be had." (Rec., 2931.) Mr. ROOT referred to another objection, namely, "that this bill does not merely hand over to the State, which is the terminus ad quem of this transportation, the power to regulate interstate commerce within its borders, but it undertakes by Federal law to enforce in each State the laws of other States. * * * Let us say that the State of Iowa, which has stringent laws, is empowered by this statute, if it is passed, to declare the circumstances under which beer may be imported from the city of St. Louis, in the State of Missouri. If the beer is carried in in accordance with the laws of the State of Iowa it is a good transaction. If it is carried in in violation of those laws, with intent to sell without a license, with intent to sell in a 'dry' town rather than a 'wet' town, with intent to sell for one purpose rather than another, then it is a bad transaction and the contract made in Missouri is a void contract, made void by the law of Iowa." (Rec., 2931.)

It was said in the Bowman case (125 U. S., 465, 480) that—

* * * "the rule has been asserted with great clearness that whenever the subjects over which a power to regulate commerce is asserted are in their nature national, or admit of one uniform system or plan of regulation, they may justly be said to be of such a nature as to require exclusive legislation by Congress. * * *

"Surely transportation of passengers or merchandise through a State, or from one State to another, is of this nature. It is of national importance that over that subject there should be but one regulating power, for if one State can directly tax persons or property passing through it, or tax them indirectly by levying a tax upon their transportation, every other may, and thus commercial intercourse between States remote from each other may be destroyed. * * * It was to guard against the possibility of such commercial embarrassments, no doubt, that the power of regulating commerce among States was conferred upon the Federal Government."

The court quoted from the case of Cooley *v.* Port Wardens (12 How., 299) the following language:

"The subjects, indeed, upon which Congress can act under this power" (over interstate commerce) "are of infinite variety, requiring for their successful management different plans or modes of treatment. Some of them are national in their character, and admit and require uniformity of regulation, affecting alike all the States; others are local, or are mere aids to commerce, and can only be properly regulated by provisions adapted to their special circumstances and localities. Of the former class may be mentioned all that portion of commerce with foreign countries or between the States which consists in the transportation, purchase, sale, and exchange of commodities. Here there can of necessity be only one system or plan of regulation, and that Congress alone can prescribe. * * * And it is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the States was to insure uniformity of regulation against conflicting and discriminating State legislation."

Again—

"Commerce with foreign countries and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property, as well as the purchase, sale, and exchange of commodities. For the

regulation of commerce as thus defined, there can be only one system of rules, applicable alike to the whole country; and the authority which can act for the whole country can alone adopt such a system. Action upon it by separate States is not, therefore, permissible." (Citing 12 How., 702.)

In summing up a review of the authorities on the subject of the limits of State legislation which would intrench upon commerce among the States, Mr. Justice Matthews said:

"In a word, it may be said that in the matter of interstate commerce the United States are but one country, and are and must be subject to one system of regulations and not to a multitude of systems."

This doctrine was asserted with emphasis in Leisy *v.* Hardin (135 U. S., 119). It is also declared in Mobile *v.* Kimball (102 U. S., 691, 697), Hall *v.* Decuir (95 U. S., 485, 507).

But it is contended that the bill would in the exercise of the undoubted powers of Congress merely declare spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind to be in effect "outlaws of commerce," and subject that class of merchandise to the exercise of the police powers of the several States.

"Doubtless," said the court the Bowman case, "the State have power to provide by law suitable measures to prevent the introduction into the States of articles of trade which, on account of their existing condition, would bring in and spread disease, pestilence, and death, such as rags or other substances infected with the germs of yellow fever or the virus of smallpox, or cattle, or meat, or other provisions that are diseased or decayed, or otherwise, from their condition and quality, unfit for human use or consumption. Such articles are not merchantable; they are no legitimate subjects of trade and commerce. They may be rightly outlawed as intrinsically and directly the immediate sources and causes of destruction to human health and life. The self-protecting power of each State, therefore, may be rightfully exerted against their introduction, and such exercises of power can not be considered regulations of commerce prohibited by the Constitution."

Reference was made to the observation of Justice Catron in the License cases, that if from the nature of the article it did not belong to commerce or if its condition from putrescence or other cause is such when it is about to enter a State that it no longer belongs to commerce, or in other words, is not a merchantable article, then the State power may exclude its introduction; and it is said that by this legislation Congress has in effect declared that liquors do not belong to commerce, are not commercial articles, and has left it to the State to effectually exclude their introduction into the State.

But in Louisville & Nashville Railroad Co. *v.* F. W. Cook Brewing Co. (223 U. S., 70-82) Justice Lurton said:

"By a long line of decisions, beginning even prior to Leisy *v.* Hardin (135 U. S., 100), it has been indisputably determined:

"a. That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce."

Senator SUTHERLAND stated during the discussion in the Senate:

"There are 8 States in the Union which have passed laws prohibiting the sale of intoxicating liquors. There are 40 States under whose laws the sale of intoxicating liquors under some circumstances is legitimate and proper, but there is no State in the Union that has thus far undertaken to forbid the purchase or the use of intoxicating liquors."

In Austin *v.* Tennessee (179 U. S., 343), Mr. Justice Brown held that cigarettes could not be classed with diseased cattle or meats, decayed fruit, or other articles the use of which is a menace to the health of the entire community, and quoted as pertinent to the case the language of Chief Justice Taney in the License Cases (5 How., 504), as follows:

"But spirits and distilled liquors are universally admitted to be subject of ownership and property, and are therefore subjects of exchange, barter, and traffic, like any other commodity in which a right of property exists, and Congress, under its general power to regulate commerce with foreign nations, may prescribe what article of merchandise shall be admitted and what excluded; and may, therefore, admit or not, as it shall deem best, the importation of ardent spirits."

That regulation of commerce may sometimes take the form of prohibition in traffic in certain articles can not be disputed. It was so with respect to lottery tickets in the Lottery Case (188 U. S., 321).

In Rasmussen *v.* Idaho, a State statute prohibiting the introduction of sheep if found subject to scab or epidemic disease liable to be communicated to other sheep was upheld, and in Plumley *v.* Massachusetts (155 U. S., 461) a Massachusetts statute prohibiting the sale of oleomargarine artificially colored so as to cause it to look like yellow butter, brought into Massachusetts, was upheld upon the ground that the statute only forbade the practice of frauds upon the general public, seeking to suppress false pretensions, and to promote fair dealing in an article of food; and that the freedom of commerce among the States did not demand a recognition of the right to the practice of deception upon the public in the articles dealt with, even if the articles may have become articles of trade of the country.

So, in Hipolite Egg Co. *v.* United States (220 U. S., 45) the provisions of the pure food and drug act of 1906, prohibiting the carriage of adulterated articles in interstate commerce, and authorizing the seizure and condemnation of the same while in transit or in original or unbroken packages after reaching destination, were upheld, upon the power of Congress to regulate interstate commerce; and applying the principle of the Lottery case, it was held that regulation might in such instance take the form of entire prohibition. The court said, per McKenna, J.:

"The statute rests, of course, upon the power of Congress to regulate interstate commerce, and, defining that power, we have said that no trade can be carried on between the States to which it does not extend, and have further said that it is complete in itself, subject to no limitations except those found in the Constitution. We are dealing, it must be remembered, with illicit articles—articles which the law seeks to keep out of commerce, because they are debased by adulteration, and which law punishes them (if we may so express ourselves) and the shipper of them. There is no denial that such is the purpose of the law, and the only limitation of the power to execute such purpose which is urged is that the articles must be apprehended in transit or before they have become a part of the general mass of property of the State. In other words, the contention attempts to apply to articles of illegitimate commerce the rule which marks the line between the exercise of Federal power and State power over articles of legitimate commerce. The contention misses the question in the case. There is here no conflict of national and State jurisdictions over property legally articles of trade. The question here is whether articles which are outlaws of commerce may be seized wherever found, and it certainly will not be contended that they are outside of the jurisdiction of the National Government when they are within the borders of a State."

In the recent decision of Hoke *v.* United States (Feb. 24, 1913) the Supreme Court, in upholding the constitutionality of the Mann white-slave act of June 25, 1910 (36 Stats., 825), put the power squarely upon the commerce clause and the right of prohibition of "a right to be exercised in immorality" on the same basis as the laws prohibiting the carrying of obscene literature or lottery tickets or cattle with infectious diseases. It may be admitted that under the authority of these decisions Congress might, if it chose, prohibit the carriage in interstate commerce of intoxicating liquors in the exercise of its power to regulate such commerce. In the Hoke case (supra) Justice McKenna said:

"But this bill does not declare liquor to be an outlaw of commerce. It does not prohibit, as a uniform rule, its carriage in interstate commerce. It proposes to turn over the whole subject to the conflicting laws of 48 States.

"The recognition of the right of Congress not directly to exercise the power to regulate commerce in liquors, but to abdicate it and to submit the whole question in traffic in liquors to the varying decisions of the different States is not the exercise by the National Government of its power in such manner as it has exercised it respecting the transportation of adulterated food, diseased cattle, obscene literature, lottery tickets, or women for immoral purposes. This objection is met by the contention that the rule of uniformity in regulations of interstate commerce is not absolute, and that the proposed legislation falls within the same category as those which have been sustained as valid by the Supreme Court, and reference is made to the legislation permitting States to enact pilot laws, the provisions of the bankruptcy act permitting the exemptions authorized by the laws of the States, respectively, and the like.

"When the Constitution took effect pilot laws existed in several States and were subsequently enacted in others. In all of such States they have been changed from time to time according to the will of their respective legislatures. The act of August, 1790, provided that the pilots should be regulated by the laws of the States or 'until further legislative provision should be made by Congress.' It was held that the power over the subject of pilotage fell within that provision of the regulation of commerce which might be exercised by the States, but only until Congress should see fit to act upon the subject."

The decision in Cooley *v.* Board of Wardens of Port of Philadelphia (12 How., 229) was put upon the peculiar nature of pilotage, and the uniform practice of the Government from the adoption of the Constitution which brought the regulation of that part of commerce within the class of powers which might be exercised by the States, and unless and until Congress should choose to interfere, and then only subject to such restrictions as Congress might see fit to interpose.

"The power to regulate commerce," said Mr. Justice Swayne in Gilman *v.* Philadelphia (3 Wall., 713), "covers a wide field, and embraces a great variety of subjects. Some of these subjects call for uniform rules and national legislation; others can be best regulated by rules and provisions suggested by the varying circumstances of different localities, and limited in their operation to such localities, respectively. To this extent the power to regulate commerce may be exercised by the States.

"Whether the power in any given case is vested exclusively in the General Government depends upon the nature of the subject to be regulated. Pilot laws are regulations of commerce; but if a State enact them in good faith, and not covertly for another purpose, they are not in conflict with the power 'to regulate commerce' committed to Congress by the Constitution."

In Hanover National Bank *v.* Moyses (186 U. S., 181) the court upheld as valid a provision in the bankruptcy law of 1898, which allowed to bankrupts the exemptions prescribed by the State laws in force at the time of the filing of the petition in the State wherein they have had their domicile for six months, or the greater portion thereof, immediately preceding the filing of the petition. It was contended that this violated Article I, section 8, paragraph 8, of the Constitution, because it did not establish "uniform laws on the subject of bankruptcy throughout the United States." But the court held that such exemptions had been sustained for the reason that it was made a rule of the law to subject to the payment of debts under its operation only such property as could by judicial process be made available for the same purpose. One of the effects of a bankruptcy law, it was stated, is that a general execution upon it in favor of all the creditors of the bankrupt reaching all his property subject to levy and applying it to the payment of his debts subject to their respective priorities.

"It is quite proper, therefore, to confine its operation to such property as other legal process could reach. A rule which operates to this effect throughout the United States is uniform within the meaning of that term as used in the Constitution." (Citing In re Deckert, 2 Hughes, 183.)

The court expressed its concurrence in this view and held "that the system is in the constitutional sense uniform throughout the United States when the trustee takes in each State whatever would have been available to the creditors if the bankruptcy law is uniform, although it may result in certain particulars differently in different States."

The statute forbidding the shipment in interstate commerce of game killed in violation of State laws (Criminal Code, secs. 242, 244), sustained in Rupert *v.* United States (181 Fed., 87), is based upon the principle announced in Gear *v.* Connecticut (161 U. S., 519), that game birds belong to the people of the respective States in their sovereign capacity, and that they are not the subject of external or interstate commerce unless permitted by the laws of the State. The distinction between internal and external or interstate commerce, said the court, "is marked, and has always been recognized by this court."

Representative WEBB sought to justify the bill on the analogy of the local-option measures enacted in the States.

"Strictly speaking," he said, "this law is not a prohibition law. It is a local-option measure to give to the States what they have always been entitled to under our interpretation of the Constitution—the right to control this troublesome question for themselves."

"The principle upon which local-option laws, so called, have been sustained," said Fuller, Chief Justice, in In re Rahrer (140 U. S., 561), "is that while the legislature can not delegate its power to make a law, it can make a law which leaves it to municipalities or people to determine some fact or state of things upon which the action of the law may depend; but we do not rest the validity of the act of Congress on this analogy. The power over interstate commerce is too vital to the integrity of the Nation to be qualified by any refinement of reasoning. The power to regulate is solely in the General Government, and it is an essential part of that regulation to prescribe the regular

means for accomplishing the introduction and incorporation of articles into and with the mass of property in the country or State."

I find no decision which sustains any such delegation of legislative power as supports the local-option provisions of State laws relating to traffic in liquor.

Representative WEBB also sought to justify the law upon the principle of those cases which delegate the duty or power to an individual of finding some fact before a congressional act takes effect. (Record, 3449.) These cases are well understood. The latest one in the Supreme Court is United States *v.* Grimaud (220 U. S., 506). That and similar cases were turned upon the well-recognized principle of Congress declaring a general rule and devolving upon a subordinate agency the power to ascertain when the facts brought a particular case within the rule. But here Congress does not declare a general rule. It does not provide that liquor shall not be, as a general rule, transported in interstate commerce; it does not declare liquor to be an outlaw of commerce; it does not declare liquor to be deleterious to health or destructive of good morals; but it declares that when one of the parties interested in liquor which is the subject of an interstate shipment intends to introduce it into a State in violation of the laws of that State its carriage shall be unlawful. Such regulation can not be sustained on the principles in the Grimaud case or those similar to it.

Finally, Senator KENYON maintained that the purpose of the bill "and its only purpose is to remove the impediment existing as to the States in the exercise of their police powers regarding the traffic or control of intoxicating liquors within their borders."

But it is unnecessary to rehearse the reasoning in the various decisions heretofore quoted which dispose of this contention.

The proposition begs the whole question under consideration and can only be conceded if it be held that Congress can abdicate entirely its power over interstate commerce in an article which it does not itself declare to be "an outlaw of commerce," but which it leaves to the varying legislation of the respective States to more or less endow with qualities of outlawry. Without prolonging this discussion in which I have endeavored to meet and analyze the various contentions set forth in behalf of this bill, I am compelled to the conclusion that it is not only of doubtful constitutionality but that unless the Supreme Court shall recede from a well-settled line of decisions extending over a long period of years it would most certainly declare this legislation to be without the constitutional powers of Congress.

Respectfully,

GEO. W. WICKERSHAM,
Attorney General.

Sixty-second Congress of the United States of America; at the third session, begun and held at the city of Washington on Monday, the 2d day of December, 1912.

An act (S. 4043) divesting intoxicating liquors of their interstate character in certain cases.

Be it enacted, etc., That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

CHAMP CLARK,
Speaker of the House of Representatives.
J. H. GALLINGER,
President of the Senate pro tempore.

The PRESIDENT pro tempore. The Chair will suggest that there is a very lengthy opinion from the Attorney General, which, without objection, will be printed in connection with the veto message.

The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? And under the Constitution the yeas and nays must be called on that question.

Mr. PAYNTER. Mr. President, I wish to submit a very few remarks on the subject before the vote is taken. Is it in order to do so now, Mr. President?

The PRESIDENT pro tempore. It is in order. The Senator will proceed.

Mr. PAYNTER. Mr. President, I attempted to discuss the constitutional question involved in the consideration of this bill and similar bills. I reached a conclusion that was perfectly satisfactory to myself, and I do not intend to rediscuss the question. But since I delivered that speech another thought has occurred to me resulting from a letter which I received.

I received a letter from a gentleman who designated his profession by adding, after his name, "M. D." The purpose of his letter was to criticize me for the speech I made on the so-called Kenyon bill. Among other things he said:

Which do you consider to be the Constitution, United States, the people, or the written United States Constitution? I say the people, and their wishes and desires should control your official acts.

The question which he propounded seems to indicate an opinion which appears to be shared by some people in this country, who are better known than my correspondent, and we hardly expect them to entertain or express such opinions.

Billions of treasure and millions of lives have been sacrificed that we might have a Constitution—one guaranteeing constitutional liberty. The world recognizes that we have a model Constitution; still we have those in this country who seem to care less for it than the ordinances of a town council. We have frenzied enthusiasts upon various subjects, and some demagogues, who are utterly oblivious, evidently, to the importance of maintaining a constitutional government. All of them may not express themselves as has my correspondent, but, like him, they forget our constitutional guaranties, some of which may be summarized as follows:

That the privileges and immunities of citizens shall not be abridged; that in all criminal prosecutions the accused shall be informed of the cause and nature of the prosecution against him; that he shall have a speedy public trial, be confronted with witnesses against him, have compulsory process for obtaining witnesses in his favor, have assistance of counsel for his defense, and trial by jury; that he shall not be compelled to answer for a capital or infamous crime unless upon a presentment of a grand jury; that no one shall be compelled to give testimony against himself; that excessive bail shall not be required or excessive fines imposed; that no ex post facto law or law impairing the obligation of contracts shall be passed; that no one shall be deprived of life, liberty, or property without due process of law; that the writ of habeas corpus shall not be suspended except in case of rebellion or invasion; that no person shall twice be put in jeopardy of life or limb for the same offense; that soldiers in time of peace shall not be quartered in any house without the consent of the owner; that private property shall not be taken for public uses without just compensation.

Mr. OWEN. Will the Senator permit me?

Mr. PAYNTER. Certainly.

Mr. OWEN. I merely want to call the attention of the Senator from Kentucky to the interesting historical circumstance that the reactionaries who drew the original Constitution of the United States in the secret conclave of 1787 were compelled by the people to put into that Constitution all the 10 amendments, nearly every single guaranty to which the Senator refers.

Mr. PAYNTER. I suppose the Senator means to intimate that the things which were done by them should be disregarded. I can see no other reason in his rising to make a statement of that kind.

These are some of the guaranties which every citizen of this country should value. If we can with impunity disregard one provision of the Constitution, then we have fixed a precedent for disregarding each and every one of these vital provisions of our Constitution.

I shall not theorize as to what, in my opinion, is producing the condition in the public mind which shows an alarming tendency to treat as valueless the Constitution of our country. I will leave each Senator to solve that question for himself.

Sir Edward Coke said, "Magna Charta is such a fellow that he will have no sovereign." I have always thought that the same may be truly said of our Constitution. It is a pity that there are some people in this country who would not give it such a preeminent status, and instead of allowing the Constitution to be a fellow without a sovereign would make him one with a very tyrannical sovereign.

There is a sane voice in the new and distant State of Arizona which exclaims, "Stand by the Constitution." It is that of Daniel E. Parks, who is, I am informed, a splendid citizen and lawyer. He appeals for respect for the Constitution in these words. I send it to the desk and ask to have it read.

The PRESIDENT pro tempore. Without objection, the Secretary will read.

The Secretary read as follows:

When Freedom cast her ægis o'er
This land of her devotion,
She called her men of might and lore
To mold the Constitution.

Chorus:

Stand by the Constitution, men—
The Nation's Constitution—
It is our "Ark of Safety," men,
Our sacred institution.

Then at the glowing forge of thought
The hammer and anvil rung,
And men of mighty minds wrought,
And o'er their labors sung:

"Old Tubal Cain did forge the sword;
We forge the Constitution—
And we'll defend it with the sword,
To death and dissolution."

"Hurrah!" they sung, "our work is done;
We've forged the Constitution,
And generations yet to come
Will bless its evolution."

In days of old our fathers fought
In sanguine Revolution,
And won the land, whose statesmen wrought
Our matchless Constitution.

Then let our joyous slogan be,
The Constitution forever!
Grand ship of state and liberty—
Sail on, O ship, forever!

The PRESIDENT pro tempore. The Senator from Kentucky will proceed.

Mr. PAYNTER. I have not the honor of a personal acquaintance with the writer. The words used and the sentiments expressed show him to have proper regard for the fundamental law of the land. I wish all citizens of our country, including public officials, entertained the same sentiments and showed the same respect for it. I intend to vote to sustain the President's veto.

Mr. McCUMBER. Mr. President, it is quite evident that the President of the United States is not a close reader of the CONGRESSIONAL RECORD. Had he been such, he probably would have discovered the real ground upon which this legislation was based and upon which it was claimed to conform to the Constitution of the United States. I have, of course, read no word of the opinion of the Attorney General, and I do not know what information he conveyed to the President as to the theory on which this legislation was claimed to meet the requirements of the interstate-commerce clause of the Constitution. I simply know that in the message of the President there is not even a hint of the ground upon which we claim that this legislation conforms to these provisions of the Constitution.

Mr. President, almost in the opening sentence of the message the President refers to the fact that beer is recognized as a legitimate article of commerce. That is true, Mr. President, in reference to opium; it is also true in reference to adulterated drugs; it is also true in reference to misbranded foods.

But, Mr. President, the Supreme Court has held over and over again that Congress, exercising its legislative authority, had the right to outlaw commodities of that character. If Congress had a right to outlaw that which theretofore had been proper subjects of interstate commerce, then Congress has the same authority to-day to declare that beer and whisky and other intoxicating liquors shall be outlawed. If Congress had the power to assert, in the first instance, the outlawry of this character of produce, then Congress must have the lesser authority to allow them to enter into interstate commerce upon certain conditions. The act itself which we passed did by its operation outlaw these articles to a certain extent and declare that they should not have all of the rights that ordinarily are accorded to proper subjects of interstate commerce, and it declared under what conditions they might enter into commerce and under what conditions they might not enter into commerce.

Having declared that they were not in any respect legitimate objects of commerce, then, Mr. President, they do not thereafter retain their immunity as proper subjects of interstate commerce. The Senator from New York, whose recognized ability as a constitutional lawyer all will agree to, when asked the question directly whether or not Congress had power to prohibit interstate commerce in intoxicating liquors, was necessarily compelled to answer in the affirmative.

We all agree that Congress has that power; and the only question is whether that power has been exercised to any extent in this act; whether Congress has to any extent outlawed the articles at which this law is aimed. We met the same question in enacting a pure-food law. Until that time no State could have prevented the importation of such food products into its territory, nor could it have seized an article of adulterated food in transit under a State law aimed at adulterated foods, but Congress came to the rescue of the States and declared that in the case of any article of food or drugs that was so labeled or so mixed as would tend to deceive the people Congress had a right to outlaw that article. Congress did so, and refused such adulterated or misbranded products any rights or privileges of interstate commerce.

Mr. President, that question has been tried and determined since we passed this bill in what is known as the White-Slave Traffic case. In a very late case handed down by the Supreme Court on February 24, 1913—I shall not take the time to read from that decision now—the right of Congress is clearly established to declare that the purchase of tickets to send a person from one State to another, there to engage in an act which was immoral, might be prohibited and the person who furnished the ticket might be punished.

Any ordinary article, Mr. President, may be shipped from one State to another; any individual may pass from one State to another and Congress can not inquire into the character of the individual or the article as a condition precedent to the allowance of that person or that article to pass from one State to another, but Congress has a right to say to the individual, "You shall not go from one State to another for the purpose of committing an immoral act, nor shall any person induce you to do so or assist you in doing so." If Congress has that power over the individual, can anyone deny for a single moment that Congress has the power over an inanimate article to say that it shall not be transported from one State to another for the purpose of destroying life, for the purpose of destroying character, for the purpose of violating the moral law of any State or the conscience of the people of any State? It is a simple proposition; and I insist that under the bill which we passed we placed on those articles the stamp of outlawry; and having so stamped them we can say under what conditions they shall enter into interstate commerce or whether they shall enter into commerce at all.

I will agree with the President's message and with those who claim that an article which is purely and simply a commercial article can not while in transit be interfered with by a State when it enters into a State.

Mr. President, I am not unmindful of the claim that is often made, that was made by the Senator from Utah [Mr. SUTHERLAND] in his very able argument on the other side of this question, that we could not outlaw and recognize a property right in an article at the same time; that by taxing and raising revenue upon articles we were thereby giving them a commercial character; and having given them that character, we could not at the same time declare that they should not be subjects of interstate commerce.

Mr. President, the authority of Congress over interstate commerce is complete and plenary in every respect. Congress may tax an article, and, at the same time, may declare under what conditions that article may enter into interstate commerce. Congress may lay a tax upon opium and at the same time may declare that the opium may not be shipped for a specific purpose. Congress may levy a tax upon nitroglycerine, and at the same time Congress may provide that that article may not enter into commerce for the purpose of blowing up structures. If Congress has the right over that kind of article, I confess I fail to understand why it is divested of a like power over an article whose effect in common use, as an injury to the human family, is a thousandfold worse than any and all of these together.

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Utah?

Mr. McCUMBER. I do.

Mr. SUTHERLAND. Does the Senator from North Dakota think that, in the absence of this legislation, a State would have the right to seize a shipment of liquor the moment it crosses the State line?

Mr. McCUMBER. I do not; and there is where I made the distinction.

Mr. SUTHERLAND. Let me ask the Senator a further question. Why may not the State do that?

Mr. McCUMBER. Simply because it is a recognized article of commerce and is protected by the interstate commerce clause of the Constitution, which places the matter wholly within the power of Congress.

Mr. SUTHERLAND. In other words, if the Senator will permit me to paraphrase what he has said, because for the State to do that would be to do an unconstitutional thing.

Mr. McCUMBER. Yes.

Mr. SUTHERLAND. It would be to do a thing forbidden by the Constitution.

Mr. McCUMBER. Yes.

Mr. SUTHERLAND. And yet the Senator from North Dakota takes the position that, although this act of the State would be absolutely void as opposed to the Constitution of the United States, the Congress of the United States may pass some law which will enable the State to violate the Constitution.

Mr. McCUMBER. No, Mr. President.

Mr. SUTHERLAND. A proposition with which I utterly disagree.

Mr. McCUMBER. No; the Senator makes the same error that he made before. Until Congress itself has stamped the article as not entitled to all rights of interstate commerce, the State can not interfere with it in transit.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Idaho?

Mr. McCUMBER. In just a moment I will.

My position is that Congress has the authority to outlaw the article, and having authority to outlaw the article, it can say under what conditions it shall enter into interstate commerce; and it can say under what conditions it will be divested of its commercial protection.

Mr. SUTHERLAND. Mr. President——

Mr. McCUMBER. Just a moment—by this law the Congress of the United States, the Federal authority, loosens its grasp upon the article and says that under the condition, the con-

dition being that it is shipped for an unlawful purpose, it shall cease to be a subject of interstate commerce the moment it crosses the State line. Then, Mr. President, the moment that it ceases to be interstate commerce, the State laws, of their own force, operate on it. Congress does not say what the State shall do or not do. The State laws are put into operation by the State authority, and can only operate upon the article when it is released by the Federal authority. Congress can do what the State can not do.

Mr. SUTHERLAND. I agree to that. Congress may do a great many things that the States can not do; but in this case, if this law passes and hereafter a State shall seize an interstate shipment of liquor the moment it has crossed the State line, if an action should be brought against the State, for doing so, the State would be obliged to concede prima facie that it had no power under the Constitution to do that, and then obliged to say that notwithstanding that it is forbidden by the Constitution we have the leave and license of Congress to violate the Constitution. I do not see how it is possible to escape that conclusion.

Mr. McCUMBER. Oh, no, Mr. President; the State must base its right upon being able to establish, and beyond any question, that the interstate character of the article has ceased when the State takes hold of it. If the State is unable to do that, it has failed in its case, and the officers seizing it are liable for damages.

I did not intend to take any more time than merely to show, Mr. President, that the real theory under which this legislation was passed at the time we had it before us was apparently not considered at all in this message, although it may have been considered—I am not prepared to say as to that—by the Attorney General.

Mr. WILLIAMS. Mr. President, Congress is granted by the Constitution authority to regulate interstate commerce. It is, therefore, granted by the Constitution the power to define what constitutes an interstate-commerce transaction. It is, therefore, granted by the Constitution the power to prescribe what shall be the termination of an interstate transaction.

Mr. President, I reverence the Constitution just as much as does the President of the United States. I profess as great reverence for it and I feel as great reverence for it. I believed when I voted for this bill, and I believe now, that it was a regulation by Congress of interstate commerce. The Senator from Utah has just given an illustration, and asks if a State of itself undertook to seize an interstate shipment whether it would not be a violation of the Constitution. It would be, but if the State, in pursuance of an act of Congress regulating interstate commerce, undertook to seize the article and could plead in justification of its seizure an act of Congress regulating interstate commerce, it would not be a violation of the Constitution. The only reason why it would be a violation of the Constitution for a State to do the thing would be because the Constitution had vested in Congress the power, and the State could exercise the power only when permitted by an act of Congress to exercise it.

Congress has just as much power to prescribe that the termination of an interstate transaction shall be at the State line as it has to prescribe that it shall cease at the consignee's door. The only reason the Supreme Court ever held otherwise was because Congress had not passed any act regulating interstate commerce upon this subject in such a way as to give the courts the right so to decide.

I do not want to argue the case. I did not open my mouth when the bill was pending before the Senate; but I want to say that, so far as I am concerned, I do not see how the mere accident that the regulation of interstate commerce by the Congress of the United States, the exercise of a power vested in Congress happening to be aidful to the States in the exercise of their constitutional reserved police power, makes the exercise of the power vested in Congress unconstitutional or even subject to the suspicion of being unconstitutional. To my mind that should not be the case. I think wherever Congress in the exercise of its power to regulate interstate commerce can exercise the power so as to be aidful and helpful to the States in the exercise of their police powers, that it ought to do so, and wherever possible not exercise it so as to restrict and restrain the States in the exercise of their police powers.

One more thought and I am done. It has seemed to me always that the decisions of the courts in the beginning upon this subject were wrong, because it has been a part of the history of the English-speaking people, from the beginning of time, that lotteries, games, gypsies, liquor selling, and things of that kind were matters of police regulation. The original mistake made was when the Supreme Court took the position that liquor was not, because of the very nature of it, subject to the reserved police powers of the States and undertook to exempt it from the reserved police powers of the States by declaring it to be a subject of interstate-commerce regulation.

Mr. KERN. Mr. President, I am a believer in the right of the people to govern themselves in their localities. I am, therefore, in sympathy with the principles underlying this bill. When it came up for passage I was in favor of its passage. I have had no occasion to change my views, but we are confronted here this afternoon by a message from the President of the United States, who is himself a great lawyer, and by an opinion of the Attorney General of the United States, which we have had no opportunity to read. I am of the opinion that this message and this opinion should challenge the attention of the Members of this body, inasmuch as they challenge the constitutionality of this measure. Therefore I move that the further consideration of the message be postponed until to-morrow afternoon at 2 o'clock, to the end that the opinion of the Attorney General may be printed in the RECORD and that the Members of this body may have an opportunity to read the same.

The PRESIDENT pro tempore. The Senator from Indiana moves that the further consideration of the veto message of the President of the United States be postponed until 2 o'clock to-morrow.

Mr. KENYON. I desire to make the point of order that under the present proceedings such a motion is not in order.

The PRESIDENT pro tempore. The Chair is constrained to overrule the point of order.

Mr. KENYON. Mr. President, I am sorry that that motion has been made. I can generally agree with whatever the Senator from Indiana proposes, but this bill was passed on Tuesday a week or so ago; it was in the House then until the following Monday, and it has been held in the President's office until almost the last moment. If it goes over until to-morrow for consideration we might as well abandon any attempt to pass it at this session of Congress.

I know that is not at all the purpose of the Senator from Indiana, but a vote to postpone consideration now is a vote to defeat this measure. I hope that no friend of the bill will be willing to have its consideration go over until to-morrow. It has been discussed pro and con, and every Senator, I assume, has his mind made up as to what he will do in regard to it. On the motion I ask for the yeas and nays.

Mr. SMOOT. I should like to ask the Senator from Indiana if he would change the hour from 2 to 12 o'clock to-morrow?

Mr. KERN. I will change it to any hour that will suit the convenience of Senators. I presume that then, at least, an abstract of the opinion of the Attorney General will be printed in the newspapers to-morrow morning.

Mr. SMOOT. It will be printed not only in the newspapers, but printed in the RECORD. I believe it will be very much better, if the motion is to prevail, to fix the hour at 12 o'clock rather than at 2.

Mr. KERN. I am entirely willing to change the hour to 10 o'clock in the morning, if it is so desired. I have no purpose to interfere in any way with the passage of the bill.

Mr. LODGE. Mr. President, I think the motion is not debatable.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Indiana that the further consideration of the veto message be postponed until to-morrow. On that motion the Senator from Iowa [Mr. KENYON] has demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HITCHCOCK. I should like to inquire whether the hour is fixed at 12 o'clock or 2 o'clock?

The PRESIDENT pro tempore. That is for the Senator from Indiana to determine.

Mr. KERN. I will change the motion so as to make it 12 o'clock to-morrow.

Mr. PERCY. Mr. President, is the motion debatable?

Mr. LODGE. No.

The PRESIDENT pro tempore. The Chair is of the opinion that it is not debatable.

Mr. PERCY. A motion to lay aside the question until 12 o'clock to-morrow is not debatable? Under what rule, may I ask the Senator from Massachusetts, is it not debatable?

Mr. LODGE. I will say, on reflection, that I think the motion is debatable.

The PRESIDENT pro tempore. The Chair spoke inadvertently, and will say that, in the opinion of the Chair, it is a debatable motion.

Mr. PERCY. Mr. President, I have no desire to delay a vote upon this measure, and I shall vote against the motion to postpone it until to-morrow. I voted against the bill on its

passage here because I thought it neither constitutional nor needed to accomplish the purpose which is sought to be accomplished by it, and I shall vote in favor of sustaining the veto.

Liquor is not a contraband of commerce, whatever it may become under changed conditions of public sentiment. Until it becomes a contraband of commerce the regulation of its transportation from State to State appertains exclusively to Congress. The States can make it a contraband of commerce or they can at least go a long way toward that end by passing laws making the possession or use of it a misdemeanor. In my judgment that is the end toward which those who favor this kind of legislation should direct their efforts. They would obtain in that way what is sought to be obtained here. They would obtain it by laws clearly constitutional instead of by laws of at least most doubtful constitutionality.

Without desiring to discuss the measure, those are the reasons which led me to vote against it and which will lead me to vote to sustain the veto.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. NELSON (when his name was called). I have a general pair with the senior Senator from Georgia [Mr. BACON], but I understand he takes the same view of the matter that I do, and therefore I will vote. I vote "nay."

The roll call was concluded.

Mr. BRIGGS. I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. In his absence, I withhold my vote.

Mr. CLARK of Wyoming. I have a general pair with the senior Senator from Missouri [Mr. STONE]. In his absence, I withhold my vote.

The result was announced—yeas 10, nays 71, as follows:

YEAS—10.

Bradley	Kavanaugh	Oliver	Shively
Foster	Martine, N. J.	Pittman	
Hitchcock	O'Gorman	Pomerene	

NAYS—71.

Ashurst	Curtis	Lea	Smith, Ariz.
Borah	Dillingham	Lodge	Smith, Ga.
Brady	Dixon	McCumber	Smith, Md.
Brandegee	du Pont	McLean	Smith, Mich.
Bristow	Fall	Martin, Va.	Smith, S. C.
Brown	Fletcher	Myers	Smoot
Bryan	Gallinger	Nelson	Stephenson
Burnham	Gamble	Overman	Sutherland
Burton	Gardner	Owen	Swanson
Chamberlain	Gore	Page	Thomas
Chilton	Gronna	Penrose	Thornton
Clapp	Guggenheim	Percy	Tillman
Clarke, Ark.	Jackson	Perkins	Townsend
Crane	Johnson, Me.	Poindexter	Webb
Crawford	Johnston, Ala.	Richardson	Wetmore
Culberson	Jones	Root	Williams
Cullom	Kenyon	Sheppard	Works
Cummins	La Follette	Simmons	

NOT VOTING—14.

Bacon	Catron	Newlands	Warren
Bankhead	Clark, Wyo.	Paynter	Watson
Bourne	Kern	Reed	
Briggs	Lippitt	Stone	

So Mr. KERN's motion was rejected.

The PRESIDENT pro tempore. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? Upon that question the roll will be called.

The Secretary proceeded to call the roll.

Mr. BRIGGS (when his name was called). I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. In his absence, I withhold my vote.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

The roll call having been concluded, the result was announced—yeas 63, nays 21, as follows:

YEAS—63.

Ashurst	Curtis	Kern	Simmons
Borah	Dillingham	Lea	Smith, Ariz.
Brady	Dixon	Lodge	Smith, Ga.
Bristow	Fall	McCumber	Smith, Md.
Brown	Fletcher	Martin, Va.	Smith, Mich
Bryan	Gallinger	Myers	Smith, S. C.
Burnham	Gamble	Nelson	Smoot
Burton	Gardner	Newlands	Swanson
Chamberlain	Gore	Oliver	Thomas
Chilton	Gronna	Overman	Thornton
Clapp	Jackson	Owen	Tillman
Clarke, Ark.	Johnson, Me.	Page	Townsend
Crawford	Johnston, Ala.	Pittman	Webb
Culberson	Jones	Poindexter	Williams
Cullom	Kavanaugh	Sheppard	Works.
Cummins	Kenyon	Shively	

NAYS—21.

Bradley	Guggenheim	Percy	Sutherland
Brandegee	McLean	Perkins	Warren
Catron	Martine, N. J.	Pomerene	Wetmore
Crane	O'Gorman	Richardson	
du Pont	Paynter	Root	
Foster	Penrose	Stephenson	

NOT VOTING—11.

Bacon	Briggs	La Follette	Stone
Bankhead	Clark, Wyo.	Lippitt	Watson
Bourne	Hitchcock	Reed	

The PRESIDENT pro tempore. On the question, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?—the yeas are 63, the nays are 21. More than two-thirds of the Senators present having voted in the affirmative, the bill is passed.

AMENDMENT TO FOOD AND DRUGS ACT.

Mr. OLIVER. I call up the conference report on the bill (H. R. 22526) to amend section 8 of an act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 13, 1906.

The PRESIDENT pro tempore. The Chair lays before the Senate the conference on that bill. The question is, Shall the conference report be agreed to?

Mr. OLIVER. The Senator from Ohio [Mr. POMERENE] wishes to be heard on the conference report.

Mr. POMERENE. Mr. President, I said a moment ago when this matter was temporarily before the Senate that I was not able to agree with the conference report. In the year 1906 the pure-food act was passed. The purpose of that law was to insure purity of food and drugs and to prevent short weight. One of those sections defined the offense of misbranding. Among the acts which were to be regarded as a misbranding was one to this effect, that if the food or drugs were in package form and "the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package."

As a matter of experience, it developed that in placing food and other articles in packages it sometimes happened that there would not be the exact weight or the exact amount. An effort was made to change this law. A bill was introduced in the House which provided, in effect, that the section which I have just read from the law of 1906 should have added to it this proviso:

Provided, That reasonable variations shall be permitted and tolerances shall be established by rules and regulations made in accordance with the provisions of this act.

It was contended that the law, as it then stood, was so strict that it was not possible, or at least easy, to comply with its provisions. The bill passed the House.

Mr. OLIVER. Mr. President, if the Senator will allow me——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Pennsylvania?

Mr. POMERENE. I do.

Mr. OLIVER. He is under a misapprehension as to the original act. The original act simply provided that if packages were branded, the brands should be corrected. The House bill sought to remedy this by providing that all packages should be branded and then followed the toleration clause.

The command that all packages should be branded is not in the existing law. The purpose of amending the law was to make it more strict and to compel all packages to be branded. Then followed the toleration clause.

Mr. POMERENE. I read the exact words from the act itself. On page 3 of the act it is provided—

That for the purposes of this act an article shall be deemed to be misbranded in the case of drugs—

I will not stop to read that part of the act. The part to which I wish to call attention is on page 4, in the case of food. I omit the first and second paragraphs because they are not pertinent to the question before the Senate. The third method of misbranding was as follows:

That if in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

It was attempted to amend this section and the proposed amendment read as follows:

Third. If in package form the quantity of the contents do not plainly and conspicuously mark on the outside of the package in terms of weight or measure or numerical amount: *Provided, however*, That reasonable variations shall be permitted and tolerances shall be established by rules and regulations made in accordance with the provisions of this act.

In the form it passed the House and came to the Senate the matter was before the Committee on Manufactures, of which

the Senator from Pennsylvania [Mr. OLIVER] is chairman. The proviso as adopted in the House was stricken out by the recommendation of the committee and the following language substituted therefor:

Provided, however, That the Secretary of Agriculture is authorized to establish rules and regulations permitting reasonable variations where, in his judgment, exactness is impracticable, and shall keep a record thereof: *Provided further,* That the provisions of this paragraph shall not apply to articles in packages or containers when the retail price of such article is 6 cents or less.

Mr. President, I may say in passing that the amendment as it was reported to the Senate by an inadvertence did not read exactly as it had been agreed upon, in this, that it exempted from the provisions of the act all articles which sold at retail at 6 cents or less. What the committee agreed upon was that those articles should be exempted which sold for less than 6 cents. But that is not, perhaps, material to the question which I am about to suggest.

As this amendment was proposed by the committee it was adopted by the Senate, and then a conference was called and the amendment of the Senate was disagreed to. The committee of conference agreed to a proposition which is neither the one adopted in the House nor the one favored by the Senate. As they report it out of conference now it reads as follows:

Provided, however, That reasonable variances shall be permitted and tolerances and exemptions as to small packages and containers shall be established by rules and regulations made in accordance with the provisions of this act.

Now, note, please, the purpose of the pure-food act in the first instance was to secure pure food and correct weights and measures. That in experience, it seems, was regarded as too exacting. We can recognize the fact that in putting up cereals or flour much of it, particularly cereals, is put up by machinery, and it is not always possible to get the exact weight. There may be variations due to climatic conditions in the administration of this law that ought in all reason to be taken care of. But I submit that when the consumer buys a pound package he is entitled to a pound of weight as a matter of right, and that when the manufacturer puts up and sells the package he ought to sell a pound in weight.

But now it is sought to change this law so as to give to him as a matter of right reasonable variations from the brands he places upon his package. My contention is that while it is not always right that he should be compelled to have the exact measure or the exact weight, when we allow any variations from that weight it ought to be as a matter of sufferance and not as a matter of right.

Mr. OLIVER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Pennsylvania?

Mr. POMERENE. Certainly.

Mr. OLIVER. I should like the Senator from Ohio to point out to me where he has it as a matter of right. I can not understand how this language can be twisted in any way except to allow reasonable variations or tolerances or exemptions upon application to the board, which consists of the Secretary of the Treasury, the Secretary of Commerce and Labor, and the Secretary of Agriculture.

Mr. POMERENE. The Senator's question anticipates my argument somewhat. If he will bear with me just a moment, I will point it out. The language of the original bill as it passed the House is that "reasonable variations shall be allowed and tolerances shall be established." The Senate provides that in the judgment of the Secretary of Agriculture he is authorized to make rules where in his judgment exactness is not practicable; in other words, whether the rule should be adopted or not, should be lodged with the Government and not with the manufacturer.

The conference report goes even beyond the bill as it passed the Senate. Under the provisions of this conference report it places it within the power of the board which is designated by the law to formulate these rules to except anything that they see fit. This board, as I stated, is to be composed of the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor.

It was urged on behalf of the manufacturers that all packages which sold at retail for 10 cents or less should be excepted from the provisions of the law. It was the judgment of the Committee on Manufactures of the Senate that that limitation should be made 5 cents, and we agree upon the language that it should apply to any packages which were less than 6 cents. But now note the language. Under this law, if the conference report is adopted, first, reasonable variations shall be permitted to the manufacturers as a matter of right, tolerances shall be established, but, more than that, this board has the right to establish any exemptions that it may see fit, because the language reads:

And tolerances and exemptions as to small packages shall be established by rules and regulations.

I can understand when there is a package, for instance, of flavors which sells for 1, 2, 3, 4, and 5 cents there should be certain variations and there perhaps should be certain exceptions from the general rule. It does not even limit it to 10 cents. The manufacturers would have been contented if there had been an exception of all packages below 10 cents; but under this language as adopted by the conference committee they could exempt all cereals, they could exempt all flour, if they saw fit.

We are delegating to this commission absolutely the power to regulate this subject. It seems to me that fundamentally Congress is the power that should control this subject, and it should not be delegated except in the very narrow limit to the commission which is provided in the pure-food act.

It seems to me that under these circumstances it would have been much wiser to have adopted the provisions in the Senate bill which, where you find that it is not practicable to insist that a pound package shall have every ounce or every grain called for, would leave it to the administrative department to fix the rules within the limits laid down here, and hem that department in by certain exceptions.

Suppose this board in its wisdom sees fit to say a 50-pound sack of flour may absorb a given amount of moisture in a dry climate and a further amount of moisture in a wet climate, and this board says, "Well, we will not make this apply to flour, we will not have it apply to crackers, we will not have it apply to cereals." It seems to me that you are giving to the board a power which will, or could at least, defeat the very purpose of the law.

Dr. Wiley appeared before the committee and made a suggestion which, I think, has much in it in this, that he suggested many of these variations could be avoided if the package was made slightly in excess of the weight branded upon the package.

Mr. President, my thought is, first, that if there are any exceptions to be made under this rule Congress shall so provide that when it comes to the administration of the law rules can be adopted by the department to apply to each particular article, such as flour or cereals or crackers or what not. But I do not believe that it is the part of wisdom for the Congress to simply turn over absolutely to this commission the full power to control not only the administration, but what is in fact the legislation upon this subject.

I understand, of course, that I am not speaking technically, because the department, as has been held by our Supreme Court, have the right, under proper authority of Congress, to provide reasonable regulations with reference to certain matters which are in fact administrative.

For that reason, I believe that we ought to insist upon the amendments adopted by the Senate. If we can not agree, I should prefer to see this matter temporarily defeated, and let us take it up and see whether we can not place it in such form as will do even and exact justice both to the manufacturers and to the consumers. This is giving, it seems to me, entire discretion to the commission, which we ought not to grant.

Mr. OLIVER. Mr. President, it seems to me that the Senator from Ohio [Mr. POMERENE] is fighting a phantom in this case. I am free to confess that I very much prefer the bill as it was reported to the Senate; I think it expresses the idea of the law better than does the bill as it came from conference; but the conferees on the part of the House differed with us. There was perhaps some pride of authorship connected with it, and the conferees on the part of the Senate yielded to that, so far as the language is concerned; but, in my opinion, they accomplish the purpose of the bill just as fully and completely as they would have done by having the bill adopted as it came from the Senate committee.

The original bill—and I shall be very brief in stating its purpose—provided that if packages should be branded, the brands must be true and correct. That is the provision in a few words.

If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

The intent of this bill is to go further, and where goods are sold in package form to say that they must be branded, and, of course, they must be branded correctly; but realizing the difficulty of obtaining absolutely correct or net measure in all respects, it is provided:

That reasonable variations shall be permitted, and tolerances shall be established by rules and regulations made in accordance with the provisions of this act.

The Senate committee thought that this would be better expressed by lodging the responsibility in the Secretary of Agriculture to make rules and regulations. So they provided:

That the Secretary of Agriculture is authorized to establish rules and regulations permitting reasonable variations where in his judgment exactness is impracticable, and shall keep a record thereof.

To obviate the difficulty of applying it to packages of small value they provided:

That the provisions of this paragraph shall not apply to articles in packages or containers when the retail price of such article is 6 cents or less.

It was intended to be "less than 6 cents." That is a clerical error. The conference committee has provided simply—

That reasonable variations shall be permitted, and tolerance, and also exemptions, as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this act.

Section 3 of this act lodges the responsibility of making rules and regulations in a board consisting of the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor.

I say, Mr. President, if we can not lodge the responsibility for such things as this in a board consisting of men of the eminence that men must have attained to be appointed to Cabinet positions, we are in a very bad case. I am willing to allow it, and I think everybody else will be.

I have received many telegrams from people who are insistent upon this legislation, advising me that they are satisfied with the bill as it comes from the conference committee. I have just received a telegram within a half hour from the lady who is chairman of the food committee of the Consumers' League, who were insistent upon having the House provisions inserted instead of the Senate amendment. Mrs. Lakey telegraphs as follows:

Hon. GEORGE T. OLIVER,
United States Senate, Washington, D. C.:

Accept tolerance clause, weights measures bill, quoted in your letter February 26.

ALICE LAKEY, *Chairman Food Committee.*

In my letter to her I informed her of the provisions of the conference committee report.

Mr. President, I think this bill accomplishes its purpose; I think it accomplishes the same result that was provided by the Senate amendment, and I hope the Senate will see fit to adopt the report.

Mr. SMOOT. I ask unanimous consent that at 6 o'clock the Senate take a recess until 8 o'clock this evening.

The PRESIDENT pro tempore. The Senator from Utah asks unanimous consent that at 6 o'clock the Senate stand at recess until 8 o'clock.

Mr. OLIVER. In case this measure is not completed at that time that request will not displace it, I suppose?

The PRESIDENT pro tempore. The Chair thinks not.

Mr. OLIVER. I hope it will be completed long before 6 o'clock.

The PRESIDENT pro tempore. In the absence of objection the request of the Senator from Utah is agreed to.

Mr. CUMMINS. Mr. President, were it not that I am a member of the Committee on Manufactures and feel, therefore, a certain responsibility for legislation of this character, I would not detain the Senate a moment, but inasmuch as the question has arisen I feel that it is my duty to state my opinion with regard to the work of the conference committee.

In my judgment the bill as it has been reported by the conference committee would not be a valid law if it were enacted. I was not satisfied with the Senate amendment, as my associates upon the committee know. I thought it ventured very near at least to forbidden ground, but this proposal that we have before us is plainly invalid. We declare that every package shall be branded with its contents in weight, measure, or numerical count. Then we say that three men—eminent men, it is true—shall be authorized to exempt small packages from the operation of the law.

What is a "small package"? I do not think there is a Senator here who will affirm that we have given in this proposed proviso a guide to the board that will enable them to act within the law. There is no such thing absolutely as a "small package." A package may weigh one pound or it may weigh a hundred pounds, depending upon the character of its contents.

Mr. BACON. I will call the Senator's attention, if he will permit me, to the fact that there is a standard of smallness very generally recognized, to wit, as small as a piece of chalk. That is recognized as a standard of smallness.

Mr. CUMMINS. That would be just as definite as is this; but I am quite sure that if the matter should ever be decided by any court it would be held that we could not invest the board constituted here or named here with the authority to exempt small packages. Therefore we ought not to do it. We ought to pass a law that would accomplish the purpose that we have in view.

I believe, and I know the Senator from Pennsylvania [Mr. OLIVER] believes, that we ought to insist upon a legislative ascertainment and declaration of the packages that are to be exempt from the operation of the law.

Moreover, we authorized the board to grant tolerance as to small packages. I do not know what a "tolerance" is so far as the scope or the execution of the law is concerned. I have never been able to discover what the word "tolerance" means in this bill, nor do I believe there is any Senator here who can define the word "tolerance." We say that the three Secretaries may grant tolerances. What are "tolerances"?

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. I yield to the Senator from New York.

Mr. O'GORMAN. I understand that the word is used in the sense that insubstantial variations will be tolerated or overlooked.

Mr. CUMMINS. However, Mr. President, we have already authorized "reasonable variations." That is somewhat indefinite, and yet I make no objection to that; but the provision as reported by the conference is as follows—and I will read it according to the punctuation that is found in the report itself:

That reasonable variation shall be permitted—

That is a declaration of the law, and I do not question its propriety—

and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this act.

I know that the Senator from Pennsylvania desires a bill that when enacted will remedy the evils which have been shown to exist, but I very much fear that if we enact this bill into law we will have jumped from the frying pan into the fire. I think our law will fail even of the purposes that it now accomplishes, and therefore I suggest to the Senator from Pennsylvania that he recall the report of the committee of conference and see if, upon further suggestion to the members of the conference committee from the House, they can not agree upon some rule or guide that can be recognized and enforced.

Mr. KERN and other Senators addressed the Chair.

Mr. OLIVER. Mr. President, I do not like to object to requests which Senators desire to make, but we are going to take a recess at 6 o'clock. I do not know if there are other Senators who wish to speak on the pending measure. If not, I think we are ready for a vote.

The PRESIDENT pro tempore. The question is on agreeing to the conference report. [Putting the question.]

Mr. POMERENE. I ask for a division.

The PRESIDENT pro tempore. The conference report is agreed to.

Mr. POMERENE. Mr. President, do I understand the conference report on the pending measure has been agreed to?

The PRESIDENT pro tempore. The conference report has been agreed to.

Mr. POMERENE. I called for a division, and immediately some one else rose and addressed the Chair. I should like——

The PRESIDENT pro tempore. The Chair did not hear any request for a division. The Chair was watching the proceedings pretty carefully.

Mr. POMERENE. I was standing right back here and called for a division at once.

OKANOGAN RIVER BRIDGE.

Mr. MARTIN of Virginia. From the Committee on Commerce, I report back favorably without amendment the bill (S. 8575) to authorize the town of Okanogan, Wash., to construct and maintain a footbridge across the Okanogan River, and I submit a report (No. 1335) thereon.

Mr. JONES. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Virginia [Mr. MARTIN]. It is a bridge bill, and I hope to get it through at this session. It is very important.

Mr. BURTON obtained the floor.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the senior Senator from Ohio yield to his colleague?

SEAMEN IN AMERICAN MERCHANT MARINE.

Mr. BURTON. I move that the Senate proceed to the consideration of House bill 23673.

Mr. POMERENE, Mr. KERN, and other Senators addressed the Chair.

Mr. BRANDEGEE. I rise to a question of order.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BRANDEGEE. It is this—and I make it with no hostility to the motion of the Senator from Ohio, but because I think the matter presented by the junior Senator from Ohio [Mr. POMERENE] should be settled before the other matter is taken up.

Mr. BURTON. I will give way immediately after my motion is acted upon.

Mr. BRANDEGEE. I heard the Senator from Ohio ask for a division on the question when the Chair ruled that the conference report was accepted. I was about to ask for unanimous consent that the matter either now or later might be——

The PRESIDENT pro tempore. The Chair will put the motion made by the Senator from Ohio, and then the other matter may be taken up.

Mr. O'GORMAN. I wish to observe, respecting the motion tendered by the Senator from Ohio, that if it should prevail, it would lead to a very long discussion.

The PRESIDENT pro tempore. The motion is not debatable under the rules. The Senator from Ohio moves to take up a bill the title of which will be stated.

The SECRETARY. A bill (H. R. 23673) to abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen.

Mr. O'GORMAN. I withdraw my observations. They had no relation to that bill.

The PRESIDENT pro tempore. The question is upon the motion of the Senator from Ohio [Mr. BURTON].

The motion was agreed to.

Mr. BURTON. I now yield, Mr. President. I think, in view of the confusion here, that I had better leave to the Chair the question of the person to whom I yield.

Mr. BORAH. Has the motion of the Senator from Ohio prevailed?

The PRESIDENT pro tempore. It has been agreed to.

Mr. KERN. Mr. President, I was recognized some time *ago*——

Mr. BORAH. The question was never put.

The PRESIDENT pro tempore. It was stated from the Chair; but the Chair will observe that there has been for 10 days so much confusion in the Chamber that the business of the Senate is seriously interrupted. A Senator came to the desk to-day, within an hour, and complained that he was incorrectly recorded. The clerks oftentimes can not hear the responses distinctly. The Chair appeals to the Senate to be in order. The motion will be again put. The question is upon the motion made by the Senator from Ohio [Mr. BURTON].

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BURTON. I yield to my colleague.

AMENDMENT TO FOOD AND DRUGS ACT.

Mr. POMERENE. I now move to reconsider the vote upon the conference report on House bill 22526.

The PRESIDENT pro tempore. The Chair will say that upon the statement made by the Senator from Connecticut [Mr. BRANDEGEE], the Chair feels at liberty to reopen the matter and to put the question again.

Mr. OLIVER. Mr. President, I was going to suggest that course, because the Chair's attention for the moment was called to one side, and I heard the Senator from Ohio make the request for a division.

The PRESIDENT pro tempore. The question is upon agreeing——

Mr. POMERENE. Mr. President, I fully appreciate what the Chair is intending to do. I made the statement that I called for a division, and I do not like to have my word questioned in that kind of a way. I am not in the habit of making statements in public unless I feel that I am right, at least.

The PRESIDENT pro tempore. The Chair trusts the Senator does not mean to apply that to the Chair. The Chair simply observed that he did not hear the motion.

Mr. POMERENE. No; but, Mr. President, the reason given by the Chair was that because of the fact that the Senator from Connecticut had made a certain statement the matter would be opened up. That was the matter to which I took exception.

The PRESIDENT pro tempore. The question is upon agreeing to the conference report.

Mr. SMITH of Georgia. Mr. President, I should like to ask the chairman of the committee whether he thinks, in case we disagree to this report, there is any chance of coming anywhere near getting a report from either the Senate committee or the House committee?

Mr. OLIVER. Mr. President, I fear at this late date it can not be done. If the matter had come up a week ago I should have immediately suggested asking for a further conference, and insisting on our amendments. But at this time I doubt very much if we could get an agreement that would result in any legislation at all.

That is the way the matter stands. I prefer the bill as it was reported to the Senate. I would rather have it; but I think this, in other language, accomplishes the same purpose. It is a long step in the right direction, and is legislation that is very much needed by the public. I think we ought to adopt the conference report as it stands.

Mr. SMITH of Georgia. I should like to ask the Senator one more question. Is the Department of Agriculture to determine which of the small packages can go without the stamp?

Mr. OLIVER. In each case that is to be done after inquiry and investigation.

Mr. POMERENE. Mr. President, if I may interrupt the Senator, in order to be exact, it leaves it to the discretion of the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor to except it.

The PRESIDENT pro tempore. The question is upon agreeing to the conference report.

Mr. POMERENE. Upon that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BRIGGS (when his name was called). I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. In his absence I withhold my vote.

The roll call was concluded.

Mr. CHILTON. I wish to inquire whether the Senator from Illinois [Mr. CULLOM] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. CHILTON. Then I will withhold my vote, as I have a pair with that Senator.

Mr. WILLIAMS (after having voted in the affirmative). I find that the Senator from Pennsylvania [Mr. PENROSE], with whom I am paired, is absent. In ignorance of that fact I voted. I transfer my pair to the Senator from Virginia [Mr. SWANSON] and will allow my vote to stand.

Mr. BRIGGS. I have already announced my pair with the Senator from West Virginia [Mr. WATSON]. I transfer that pair to the junior Senator from Rhode Island [Mr. LIPPITT] and will vote. I vote "yea."

Mr. SMITH of Michigan. I announce my pair with the junior Senator from Missouri [Mr. REED] and withhold my vote.

Mr. CLARK of Wyoming. I transfer my pair with the Senator from Missouri [Mr. STONE] to the Senator from Maryland [Mr. JACKSON] and will vote. I vote "yea."

Mr. KERN (after having voted in the negative). I voted thinking that my pair, Senator BRADLEY, of Kentucky, had voted. I find he has not. I transfer my pair to the Senator from Oklahoma [Mr. GORE] and will vote. I vote "nay."

Mr. SIMMONS. Has the Senator from Minnesota [Mr. CLAPP] voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. SIMMONS. I transfer my general pair with the Senator from Minnesota [Mr. CLAPP] to the Senator from Nevada [Mr. NEWLANDS] and will permit my vote to stand.

The result was announced—yeas 28, nays 23, as follows:

YEAS—28.

Brandegee	Fletcher	Martin, Va.	Root
Briggs	Gallinger	O'Gorman	Smith, S. C.
Burton	Gamble	Oliver	Thornton
Chamberlain	Johnston, Ala.	Page	Townsend
Clark, Wyo.	Jones	Paynter	Warren
Crane	Lodge	Perkins	Wetmore
Dixon	McLean	Richardson	Williams

NAYS—23.

Bacon	Gardner	Overman	Shively
Borah	Hitchcock	Owen	Simmons
Bristow	Kenyon	Pittman	Smith, Ga.
Crawford	Kern	Poindexter	Thomas
Cummins	Lea	Pomerene	Webb
Foster	Martine, N. J.	Sheppard	

NOT VOTING—44.

Ashurst	Culberson	La Follette	Smoot
Bankhead	Cullom	Lippitt	Stephenson
Bourne	Curtis	McCumber	Stone
Bradley	Dillingham	Myers	Sutherland
Brady	du Pont	Nelson	Swanson
Brown	Fall	Newlands	Tillman
Bryan	Gore	Penrose	Watson
Burnham	Gronna	Percy	Works
Catron	Guggenheim	Reed	
Chilton	Jackson	Smith, Ariz.	
Clapp	Johnson, Me.	Smith, Md.	
Clarke, Ark.	Kavanaugh	Smith, Mich.	

So the report was agreed to.

MARY CATHCART RANSDELL.

Mr. BRIGGS. From the Committee to Audit and Control the Contingent Expenses of the Senate, I report back Senate resolution 431, with an amendment, and I ask the attention of the junior Senator from Indiana [Mr. KERN] to it. I ask for the present consideration of the resolution.

The Senate, by unanimous consent, proceeded to consider the resolution, which was read, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary Cathcart Ransdell, widow of Daniel M. Ransdell, late Sergeant at Arms of the Senate, a sum equal to 12 months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

The amendment was, before the word "months," to strike out "12" and insert "6."

Mr. KERN. Mr. President, I hope the amendment of the committee will not be adopted and that the resolution as originally presented will be adopted.

The resolution provided that the widow of the late Sergeant at Arms should be paid a year's salary, under the same rule under which widows of Members of the Senate are paid a year's salary. It seems to me that in these times, when we are voting away money by scores of millions of dollars for doubtful purposes, in a case of this kind, where a servant of the Senate has died—a man who served the Senate faithfully for 13 years, a gallant soldier, who has left a family in circumstances in which they need this money—there ought to be no quibble about the Senate generously voting to this woman a year's salary.

If the service had been short, as in the case of the Sergeant at Arms of the other House, who died after a few months' service, it would have been different. But here is a long service. No man here ever knew a knightlier, gentler, sweeter character than that of Mr. Ransdell. It seems to me that in appreciation of this long and faithful and courteous service there ought to be no hesitation in giving his widow this amount of money.

Mr. SMITH of Georgia. I will ask the Senator if it is not true that during all this long service a very handsome salary has been paid?

Mr. KERN. Unquestionably that is true.

Mr. BRISTOW. I desire to state that it is the practice of the Senate, when an employee dies, to pay the relatives of the employee six months' salary. That rule is applied to all of the employees. I can see no reason why the same rule should not apply to an employee who receives $5,000 that is applied to an employee who receives $1,000. There is no more reason for giving the widow of Col. Ransdell a year's salary than the widow of any other employee of the Senate. I say this with as much respect and as great affection for Col. Ransdell as the Senator from Indiana or anyone else could have. It is simply for the purpose of treating the employees of the Senate and the officers of the Senate upon exactly the same basis.

Mr. CLARK of Wyoming. I wish to ask the Senator from Kansas, whom I believe is a member of the Committee on Contingent Expenses, whether the rule that he has stated is a universal one. My recollection is that on more than one occasion the Senate has paid to the widows of employees a full year's salary.

Mr. BRISTOW. There have been a few exceptions made. If I remember rightly, as far as the records go—and they run back for probably half a century—there have been five exceptions. I will not state that as being absolutely accurate, but it is as clearly as I remember it.

Mr. KERN. I think it is true, I am so informed, that in the case of officers of the Senate a full year's salary has always been given.

Mr. BRISTOW. That is not correct.

Mr. KERN. When we apply the rule of reason to these things it will be difficult perhaps to find a reason for anything of the kind as that a year's salary should be given to the widow of a Member. Here is an elective officer of the Senate who served 13 years. It is an exceptional case. It would not furnish a precedent for anything that would be likely to happen in a hundred years. If gentlemen appreciate this service as it was rendered, as they claim to do, it seems to me they could not better express their sympathy than by voting this amount. It will not hurt anyone and it will, on the other hand, do a vast deal of good.

Mr. BRISTOW. It is a matter for the Senate to decide. If it wants to set the precedent of giving the widows of our deceased employees a year's salary, that is all right, but for one I am not in favor of treating the employee who receives $5,000 a year different from the employee who receives $1,000 or $2,000.

The PRESIDENT pro tempore. The question is on agreeing to the amendment. [Putting the question.] The noes appear to have it.

Mr. SMITH of Georgia. I ask for a division.

The PRESIDENT pro tempore. The hour of 6 o'clock having arrived, under the previous order of the Senate, the Senate will stand in recess until the hour of 8 o'clock.

The Senate thereupon (at 6 o'clock p. m.) took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m. on the expiration of the recess.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On February 28, 1913:

S. 6176. An act for the relief of Gibbes Lykes; and

S. 7385. An act to relinquish the claim of the United States against the grantees, their legal representatives and assigns, for timber cut on Petaca land grant.

PUBLICATION OF REVOLUTIONARY WAR RECORDS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 271) to authorize the collection of the military and naval records of the Revolutionary War, with a view to their publication, which were, on page 1, line 3, after "That," to insert "within the limits of the appropriation herein made"; on page 2, line 1, to strike out "fifty" and insert "twenty-five"; on page 2, line 2, to strike out "ten" and insert "seven"; and on page 2, line 3, after "*Provided*," to insert "That the aforesaid sums of money shall be expended, respectively, under the direction of the Secretary of War and the Secretary of the Navy, and that they shall make to Congress each year detailed statements showing how the money herein appropriated has been expended and to whom: *Provided further*."

Mr. DIXON. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its chief clerk, announced that the House had passed the bill (S. 271) to authorize the collection of the military and naval records of the Revolutionary War with a view to their publication, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. LAMB, Mr. LEVER, and Mr. HAUGEN managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 28775) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FITZGERALD, Mr. SHERLEY, and Mr. CANNON managers at the conference on the part of the House.

SEAMEN OF THE AMERICAN MERCHANT MARINE.

Mr. BURTON. I understand that the naval appropriation bill is ready for consideration. I ask unanimous consent that the seaman's bill, the unfinished business, be temporarily laid aside.

Mr. SMOOT. Is the seaman's bill the unfinished business now?

The PRESIDENT pro tempore. It is by motion. Without objection, that order will be made.

Mr. O'GORMAN. What is the order, Mr. President?

The PRESIDENT pro tempore. When the recess was taken the Senate was engaged in the consideration of a resolution. Ordinarily that would come up, but the Senator from California [Mr. PERKINS] will move to take up the naval appropriation bill.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. I ask that the action of the House of Representatives on the sundry civil appropriation bill be laid before the Senate.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 28775) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendment, that the request of the House for a conference be granted, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. WARREN, Mr. PERKINS, and Mr. TILLMAN conferees on the part of the Senate.

INTERSTATE SHIPMENT OF LIQUORS—VETO MESSAGE.

Mr. LA FOLLETTE. Mr. President, when the question of passing the bill known as the Webb bill over the President's veto was up this afternoon I was called from the Chamber and had no opportunity to vote upon the bill.

Had I been present I should have voted to pass the bill the President's objections to the contrary notwithstanding.

I wanted to make that entry in the RECORD, because it is an important matter.

NAVAL APPROPRIATION BILL.

Mr. PERKINS. I move that the Senate proceed to the consideration of House bill 28812, the naval appropriation bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 28812) making appropriation for the naval service for the fiscal year ending June 30, 1914, and for other purposes, which had been reported from the Committee on Naval Affairs with amendments.

Mr. PERKINS. I ask that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that the amendments of the committee be first considered.

The PRESIDENT pro tempore. The Senator from California asks unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and the committee amendments be first considered. Is there objection?

Mr. SMITH of Georgia. Yes; I suggest that all amendments be considered at the same time, paragraph by paragraph.

The PRESIDENT pro tempore. Objection is made, and the bill will be considered, and amendments of the committee and amendments from the floor will be entertained. The reading will be proceeded with.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Naval Affairs was, under the subhead "Pay of the Navy," on page 2, line 5, after the words "Naval Academy," to insert "who is hereby placed upon the same footing respecting restrictions upon allowances, including retirement, as the senior dental surgeon now at the Military Academy," so as to read:

Pay and allowances prescribed by law of officers on sea duty and other duty; officers on waiting orders; officers on the retired list; clerks to paymasters at yards and stations, general storekeepers ashore and afloat, and receiving ships and other vessels; two clerks to general inspectors of the Pay Corps; one clerk to pay officer in charge of deserters' rolls; not exceeding 10 clerks to accounting officers at yards and stations; dentist at Naval Academy who is hereby placed upon the same footing respecting restrictions upon allowances, including retirement, as the senior dental surgeon now at the Military Academy.

Mr. LODGE. I desire to modify that amendment by inserting the word "now" after the word "dentist," in line 5, and in line 8, after the word "Academy," the words "who shall be appointed by the President, by and with the advice and consent of the Senate, and."

Mr. BRISTOW. I should like to have the Senator explain just what this amendment does.

Mr. LODGE. Last year the naval appropriation act established a corps of dental surgeons in the Navy. It was a House provision, agreed to by the Senate, and became a law. At Annapolis there is a dentist who has been there for many years, who has done the entire work which, at the Military Academy at West Point, is performed by a dental surgeon regularly commissioned who has an assistant contract surgeon. He has been doing the work of two men. It was recommended by the department and agreed to by both committees that he should be retained as a dental surgeon. He could not enter before, because a provision about the corps limited the age of entrance naturally and properly to young men. This is to promote him to the Corps of Dental Surgeons. It was so provided in the act. That was the intention of Congress. By some interpretation of the department they have managed to prevent the intention of Congress from being carried out and have left him, after many years of service, without the position which Congress intended to confer and thought they had conferred upon him as a mere matter of justice, after so many years of service.

Mr. BRISTOW. I understand when the bill passed the Senate it provided for retirement at the age of 70. That was changed in conference, was it not?

Mr. LODGE. It was changed to 65.

Mr. BRISTOW. Changed to 65?

Mr. LODGE. I think so—the House provision.

Mr. BRISTOW. I thought it was changed to 62.

Mr. LODGE. I am not perfectly certain.

Mr. BRISTOW. The principal objection I have to these dental surgeons is that they are retired at an early age, and it simply loads the retired list of the Navy with men who are perfectly capable of attending to the kind of business they are employed to do. I do not intend to contend against this man being incorporated within the corps, because I think if he has been there for years——

Mr. LODGE. For many years.

Mr. BRISTOW. It is a very proper thing to do.

Mr. SMITH of Georgia. We can not hear the Senator from Kansas over on this side.

Mr. BRISTOW. I was trying to find out at what age these dental surgeons are retired. When the Senate passed the bill last year it fixed the age of retirement at 70 for the dentists in the Navy. I think there was a radical change made in the conference, and that is what the Senator from Massachusetts was looking up.

Mr. LODGE. The retirement is the same as for officers of the Medical Corps of the Navy.

Mr. BRISTOW. I can not see why a dentist or physician should be retired at the age of 62 years and go upon retired pay. I should like to move to amend by inserting after "Academy," in line 8, the following:

That all dental surgeons shall be retired at the age of 70.

Mr. LODGE. I would suggest to the Senator that later in the bill, under "Bureau of Medicine and Surgery," there will be offered an amendment which is being prepared by the Senator from North Carolina and which is approved by the committee, treating the corps generally, and his amendment will be better there than at this point, which applies only to this one man.

Mr. BRISTOW. All right.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 3, after line 8, to strike out:

Hereafter the service of a midshipman at the United States Naval Academy, or that of a cadet at the United States Military Academy, who may hereafter be appointed to the United States Naval Academy or to the United States Military Academy, shall not be counted in computing for any purpose the length of service of any officer in the Navy or in the Marine Corps.

The amendment was agreed to.

The next amendment was, on page 3, after line 15, to strike out:

That so much of an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps," approved March 3, 1899, which reads as follows: "and that all officers, including warrant officers, who have been or may be appointed to the Navy from civil life shall, on the date of appointment, be credited for computing their pay, with five years' service," shall not apply to any person entering the Navy from and after the passage of this act.

The amendment was agreed to.

The next amendment was, on page 4, after line 15, to insert:

That the accounting officers of the Treasury are hereby authorized and directed to allow in the accounts of disbursing officers of the Navy all payments heretofore made by them in accordance with orders or regulations of the Secretary of the Navy for commutation of subsistence to members of the Nurse Corps of the Navy at the rate therein specified, and that the Secretary of the Navy is hereby authorized, in his discretion, to hereafter allow members of the Nurse Corps of the Navy 75 cents per diem in lieu of subsistence when subsistence in kind is not furnished by the Government.

The amendment was agreed to.

The next amendment was, on page 5, after line 2, to insert:

That all officers of the Navy who, since the 3d day of March, 1899, have been advanced or may hereafter be advanced in grade or

rank pursuant to law shall be allowed the pay and allowances of the higher grade or rank from the dates stated in their commissions.

The amendment was agreed to.

The next amendment was, on page 7, after line 6, to insert:

That the accounting officers of the Treasury are hereby authorized and directed to allow in the settlement of the accounts of disbursing officers the amounts disallowed against certain officers of the Navy on account of promotion under the opinion of the Attorney General (27 Op., p. 251); and to reimburse the officers who have refunded to the United States the amount disallowed, in accordance with said opinion, and to pay them out of the appropriation "Pay of the Navy."

The amendment was agreed to.

The next amendment was, on page 7, after line 15, to insert:

That the Secretary of the Navy is authorized to make such readjustments as may be necessary to equalize the pay of classified employees of the navy yards and stations with the pay of employees of other Government departments performing similar duties.

The amendment was agreed to.

The next amendment was, on page 7, after line 20, to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit in the accounts of Paymaster John W. Morse, United States Navy, the sum of $46,491.95, being the amount stolen from United States funds by Pay Clerk Edward V. Lee, United States Navy, and charged against the accounts of the said John W. Morse, paymaster, on the books of the Treasury Department.

Mr. SMITH of Georgia and Mr. BRISTOW rose.

Mr. LODGE. I will explain that amendment if the Senator desires.

Mr. SMITH of Georgia. That is what I want.

Mr. LODGE. This is a case which Senators may remember, where a paymaster's clerk robbed the safe at Habana and took some $50,000, a considerable portion of which was recovered. The matter went into court and the paymaster was entirely exonerated. It was like an ordinary case of robbery. He broke into the safe and took the money in the absence of the paymaster. The matter was brought up in a separate bill on the recommendation of the Navy Department, and it was passed by the Senate. It has been reported favorably by the House Naval Committee and is pending in the House. It is a mere matter of bookkeeping. It is to relieve this man from the charge against him on the books.

Mr. BRISTOW. What relation does the pay clerk have to the paymaster? Is the paymaster in charge of the office himself and is the clerk simply his assistant, or does the clerk take charge of a certain office under the general supervision of the paymaster?

Mr. LODGE. The paymaster's clerk is merely his assistant. He is not, I think, a bonded officer.

Mr. PERKINS. He is detailed from the department.

Mr. LODGE. He is detailed from the department. This man, as I said, opened the safe in the absence of the paymaster and robbed it and escaped on shore in Cuba.

Mr. BRISTOW. I have been told that in a number of instances the paymaster's clerk is the real paymaster and the paymaster himself gives little attention to the business.

Mr. LODGE. Oh, no. This was on board ship, and the paymaster is there himself. He was not there, but he had taken every precaution. It was so found by the court. It was all tried by the court.

Mr. BRISTOW. I can see that the paymaster might be wholly blameless.

Mr. LODGE. The court found him wholly blameless and recommended that this credit be given on the books.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 8, after line 3, to insert:

The Auditor for the Navy Department is hereby authorized and directed to credit to the account of Pay Director John N. Speel, United States Navy, the sum of $263.54, now standing charged against him on the books of the Treasury Department, on account of an advance made by him to Paymaster's Clerk Edward V. Lee, United States Navy, who deserted from the service before the amount could be deducted from his salary.

Mr. SMITH of Georgia. Why was the advance made before it was due?

Mr. LODGE. This is a similar case, and this is the statement in reference to it:

STATEMENT OF PAY DIRECTOR JOHN N. SPEEL.

On the 23d of September, 1910, Paymaster's Clerk Edward V. Lee presented his orders for duty on board the U. S. S. *Georgia* and requested the sum of $500 advance. As it was my duty, under Naval Regulations (par. 1088), to make advances to officers of the Navy on their orders to sea duty, the amount requested was advanced in the usual manner. Mr. Lee deserted before he had served sufficient time to earn the amount advanced, less the allotment registered by him. The advance made was authorized by the regulations of the Navy, and I request to be relieved of the amount now standing against me on the books of the Treasury Department, in the sum of $263.54. This will require no appropriation whatever by Congress, and I simply ask that the Auditor of the Navy Department be authorized to credit my account with the amount above stated. Since the act of June 24, 1910, went into effect, recognizing paymaster's clerks as officers, a separate order was not deemed necessary.

JOHN N. SPEEL,
Pay Director United States Navy.

Mr. SMITH of Georgia. It was not a voluntary advance, but one that he was obliged to make under the regulations?

Mr. LODGE. He was obliged to make it by law, and under the regulations which provide for advances to officers on sea service.

The amendment was agreed to.

Mr. O'GORMAN. Mr President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Senator from New York offers an amendment, which will be stated.

The SECRETARY. On page 8, line 1, it is proposed to insert:

The President is authorized to nominate and, by and with the advice and consent of the Senate, to appoint William E. Farrell, late a midshipman and ensign in the United States Navy, and to place him on the retired list as such with three-fourths pay to his credit: *Provided*, That nothing in this act contained shall be construed to allow the payment of any salary or emolument to said William E. Farrell, except those that may accrue from the date of this act.

Mr. O'GORMAN. I propose this amendment with the approval of the chairman of the Naval Committee. The matter has been thoroughly investigated by the Naval Committee; and I send to the Secretary's desk the report made by that committee and ask that the Secretary read it.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

William E. Farrell was appointed midshipman January 29, 1904. He entered the Naval Academy and remained there until December 2, 1907, when he developed inflammatory rheumatism and afterwards tuberculosis of the left knee. After several operations at Annapolis, he was sent to Las Animas, Colo., where he is at present under the care of the Government, although out of the service. He is now on crutches and will always be crippled. He went into the service in good health, and his ailment was acquired while in line of duty. The essential facts in the case are stated in the following letter from the Acting Secretary of the Navy:

JANUARY 20, 1912.

Referring to your letter of January 12, 1912, inclosing a bill (S. 4331) for the relief of William E. Farrell, and requesting for the committee the opinion of the department thereon, I have the honor to inform you that William E. Farrell was appointed a midshipman at the United States Naval Academy on June 29, 1904, and his resignation, while a member of the first or senior class, was accepted, to take effect January 18, 1910, by reason of the recommendation of the Surgeon General of the Navy, on the report of a board of medical survey in the case of Mr. Farrell, held in October, 1909, which board found him unfit for the naval service on account of tuberculosis of the left knee and femur, and lungs," contracted in the line of duty.

There is no provision of law which covers the conditions existing in the case under consideration, and while the department realizes the fact that the disease was contracted in line of duty, yet it feels constrained not to give its approval to special measures, particularly in view of the fact that the object sought is to place upon the retired list of the Navy one who is not now connected with the service.

Faithfully, yours,

BEEKMAN WINTHROP,
Acting Secretary of the Navy.

It will be noted that the ground of the withholding of approval by the department is that there is no provision of law which covers the conditions existing in this case and that the beneficiary of the bill is not now connected with the service. Attention is called to the fact that the reason why Farrell is not now connected with the service is the disability contracted in line of duty, which is the very ground upon which the relief is sought.

A precedent for special legislation in a similar case is found in the case of Cadet J. Randolph Peyton, who was put upon the retired list by S. 7764, Sixtieth Congress, second session, under circumstances substantially similar to those in this case.

The committee recommends that the bill be favorably reported.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. LODGE. Mr. President, I send to the desk an amendment which embodies a provision reported by the House committee, but which went out in that body on a point of order, owing to a defect in the wording of the clause.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Massachusetts will be stated.

The SECRETARY. On page 7, line 3, after the numerals "$1,000,000," it is proposed to insert:

Provided further, That the present construction of the law applying to leave of absence of per annum employees of the classified service of the clerical, drafting, inspection, messenger, and watch force at navy yards and naval stations shall hereafter apply to per diem employees of the classified service at such yards and stations.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, under the subhead "Bureau of Navigation," on page 9, line 22, after the word "same," to insert "advertising for," so as to read:

Recruiting: Expenses of recruiting for the naval service; rent of rendezvous and expenses of maintaining the same; advertising for ob-

taining men and apprentice seamen; actual and necessary expenses in lieu of mileage to officers on duty with traveling recruiting parties, $130,000.

Mr. LODGE. The word "and" ought to be added after the word "for," and the semicolon stricken out, so that it would read "advertising for and obtaining." I move that amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, in the item of appropriation for expenses of recruiting for the naval service, on page 10, line 18, after the word "payment," to insert:

Provided, That authority is hereby granted to employ the services of an advertising agency in advertising for recruits under such terms and conditions as are most advantageous to the Government.

The amendment was agreed to.

The next amendment was, on page 14, line 15, after the word "same," to strike out "$23,750" and insert "$25,250"; in line 16, after the words "international law," to strike out "$1,500" and insert "$2,000"; and on page 15, line 2, after the name "Rhode Island," to strike out "$26,850" and insert "$28,850," so as to read:

Naval War College, Rhode Island: For maintenance of the Naval War College on Coasters Harbor Island, and care of grounds for same, $25,250; services of a lecturer on international law, $2,000; services of civilian lecturers, rendered at the War College, $300; care and preservation of the library, including the purchase, binding, and repair of books of reference and periodicals, $1,300: *Provided*, That the sum to be paid out of this appropriation under the direction of the Secretary of the Navy for clerical, inspection, drafting, and messenger service for the fiscal year ending June 30, 1914, shall not exceed $10,250. In all, Naval War College, Rhode Island, $28,850.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Ordnance" on page 17, line 7, after the word "proposals," to insert:

Provided, That this restriction shall not apply to purchases of shells or projectiles of an experimental nature or to be used for experimental purposes and paid for from the appropriation "Experiments, Bureau of Ordnance": *Provided*, That hereafter the Secretary of the Navy is hereby authorized to make emergency purchases of war material abroad: *And provided further*, That when such purchases are made abroad, this material shall be admitted free of duty.

The amendment was agreed to.

The next amendment was, on page 18, line 8, after the word "issue," to strike out "$100,000" and insert "$150,000," so as to read:

For replacing Mark VI 6-inch guns with Mark VIII guns and repairing and modernizing the Mark VI guns for issue, $150,000.

The amendment was agreed to.

The next amendment was, on page 18, line 16, after "$3,850,000," to insert "to be available until expended," so as to read:

Ammunition for ships of the Navy: For procuring, producing, preserving, and handling ammunition for issue to ships, $3,850,000, to be available until expended.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Equipment," in the item of appropriation for equipment of vessels, on page 21, line 9, after the word "service," to insert "including the purchase of land as necessary sites for radio shore stations," so as to read:

Service and supplies for coast signal service, including the purchase of land as necessary sites for radio shore stations, instruments and apparatus, supplies, and technical books and periodicals required to carry on experimental and research work in radiotelegraphy at the naval radio laboratory.

The amendment was agreed to.

The next amendment was, on page 22, line 14, after "$4,925,000," to insert "$75,000 of said sum, or so much thereof as may be necessary, may be used for the survey and investigation by experimental tests of coal in Alaska for use on board ships of the United States Navy, and for report upon coal and coal fields available for the production of coal for the use of ships of the United States Navy or any vessel of the United States," so as to read:

Coal and transportation: Coal and other fuel for steamers' and ships' use, and other equipment purposes, including expenses of transportation, storage, and handling the same, and for the general maintenance of naval coaling depots and coaling plants, water for all purposes on board naval vessels, including the expenses of transportation and storage of the same, $4,925,000, $75,000 of said sum, or so much thereof as may be necessary, may be used for the survey and investigation by experimental tests of coal in Alaska for use on board ships of the United States Navy, and for report upon coal and coal fields available for the production of coal for the use of ships of the United States Navy or any vessel of the United States.

The amendment was agreed to.

Mr. PERKINS. I offer an amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment proposed by the Senator from California will be stated.

The SECRETARY. On page 22, line 14, after the word "same," it is proposed to strike out "$4,925,000" and insert "$5,000,000,"

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, under the subhead "Public works, Bureau of Yards and Docks," on page 27, line 10, after the word "crane," to insert "(limit of cost not exceeding"; in line 11, after the word "exceeding," to strike out "$300,000" and insert "$100,000"; and in line 15, after the name "Virginia," to strike out "$462,500" and insert "$252,500," so as to read:

Navy yard, Norfolk, Va.: Railroad tracks, extensions, $10,000; repairs, buildings, St. Helena, $25,000; improvements to water front, to continue, $50,000; paving and grading, to continue, $10,000; heating system, extension, $5,000; 150-ton crane (limit of cost not exceeding $100,000); dredging, to continue, $40,000; water system, extensions, $7,500; sewer system, extension, $5,000; lavatories and toilet facilities, $5,000; compressed-air system, extensions, $5,000; in all, navy yard, Norfolk, Va., $252,500.

Mr. LODGE. That amendment is incorrectly printed.

Mr. SWANSON. I offer the amendment to the amendment, which I send to the desk.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 27, line 10, after the word "crane," it is proposed to insert "(limit of cost not exceeding $300,000), $100,000,"

Mr. LODGE. That is right.

The amendment to the amendment was agreed to.

Mr. SWANSON. On line 15, page 27, instead of the sum being $252,500, it ought to be $262,500. I move that amendment to the amendment.

The PRESIDENT pro tempore. The amendment to the amendment proposed by the Senator from Virginia will be stated.

The SECRETARY. On page 27, in line 15, of the committee amendment, it is proposed to strike out "$252,000" and to insert "$262,500."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 27, line 19, after the word "berths," to insert "(to cost not exceeding $300,000)"; in line 20, after "$150,000," to insert "power plant equipment and distributing system, to extend, $35,000"; and in line 21, after the words "in all," to strike out "$159,000" and insert "$194,000," so as to read:

Navy yard, Charleston, S. C.: Paving and grading, to continue, $1,000; locomotive and crane shed, $5,000; remodeling dispensary, building No. 19, $3,000; toward torpedo boat berths (to cost not exceeding $300,000), $150,000; power plant equipment and distributing system, to extend, $35,000; in all, $194,000.

The amendment was agreed to.

The next amendment was, on page 28, after line 13, to insert:

Naval station, Narragansett Bay, R. I.: For purchase of land for extension of landing facilities, $40,000.

The amendment was agreed to.

The next amendment was, on page 32, after line 4, to insert:

Marine barracks, Isthmus of Panama: Erection of barracks, quarters, and other buildings for accommodation of marines, $400,000.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Medicine and Surgery," on page 33, line 9, after the word "marines," to strike out "*Provided*, That hereafter no sites shall be procured or hospital buildings erected or extensions to existing hospitals made unless hereafter authorized by Congress," and insert "*Provided*, That the sum of $70,000 is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the building of a new power plant at the Naval Hospital, Chelsea, Mass., said sum of money to be paid into the Treasury from the proceeds of sale of land authorized by the naval act of June 29, 1906," so to read:

Section 4810 of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 4810. The Secretary of the Navy shall procure at suitable places proper sites for Navy hospitals, and if the necessary buildings are not procured with the site, shall cause such to be erected, having due regard to economy, and giving preference to such plans as with most convenience and least cost will admit of subsequent additions, when the funds permit and circumstances require; and shall provide, at one of the establishments, a permanent asylum for disabled and decrepit Navy officers, seamen, and marines: *Provided*, That the sum of $70,000 is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the building of a new power plant at the Naval Hospital, Chelsea, Mass., said sum of money to be paid into the Treasury from the proceeds of sale of land authorized by the naval act of June 29, 1906.

The amendment was agreed to.

Mr. LODGE. I offer an amendment to come in on page 35, after line 3.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). The amendment will be stated.

The SECRETARY. On page 35, after line 3, it is proposed to insert:

Provided, That a Navy Dental Reserve Corps is hereby authorized to be organized and operated under the provisions of the act approved August 22, 1912, providing for the organization and operation of a Navy Medical Reserve Corps, and differing therefrom in no respect other than that the qualification requirements of the appointees shall be dental surgeons and graduates of reputable schools of medicine or dentistry instead of "graduates of reputable schools of medicine," and so many of said appointees may be ordered to temporary active service as the Secretary of the Navy may deem necessary to the health and efficiency of the personnel of the Navy and Marine Corps, providing the whole number of both Regular Corps and Reserve Corps dental surgeons in active service shall not exceed, in time of peace, 1 to each 1,500 of the said personnel, and no dental surgeon shall render service until his appointment shall have been confirmed by the Senate: *Provided further*, That Dental Corps officers of permanent tenure shall be appointed from the Dental Reserve Corps membership in accordance with the said provisions of the said act, and all such appointees shall be citizens of the United States between 22 and 30 years of age, of good moral character, of unquestionable professional repute, and before appointment shall pass satisfactory physical and professional examinations, and when appointed shall take rank and precedence in the same manner in all respects as in the case of appointees to the Medical Corps of the Navy, and shall receive corresponding pay and allowances and be entitled to retired pay: *Provided*, That their promotions shall be limited to six from the grade of assistant dental surgeon to the grade of passed assistant dental surgeon in each period of 5 years, and to three from the grade of passed assistant dental surgeon to the grade of dental surgeon in each period of 11 years.

That the provisions of the act approved August 22, 1912, which relate to the appointment of dental surgeons to the Navy Medical Reserve and Dental Corps are hereby repealed.

Mr. BRISTOW. Mr. President, I desire to offer an amendment to the amendment. If the Secretary will hand the amendment to me, I will state where I want it inserted. In the last line of the second proviso, after the word "and," insert "when they reach the age of 70 years," so that it will read "and when they reach the age of 70 years be entitled to retired pay."

Mr. PERKINS. Why should their retiring age be increased beyond that of other officers?

Mr. BRISTOW. I do not think that dentists should be retired at the age of 62. Certainly, men in civil life not performing military duty, but who are attending to the ordinary affairs of life as other dentists are doing, should not be put on the retired list at the age of 62. I have been advised that some of these dentists have retired at the age of 62 and then set up offices and practiced for years whilst receiving retired pay from the Government. I do not think that such a practice is justified. This matter was taken up last year, as the Senator from California knows, and the Senate fixed the retiring age at 70 for dental surgeons.

Mr. PERKINS. Perhaps the Senate would like to have an opportunity to vote on the question again.

Mr. BRISTOW. I think it should be insisted on by the Senate.

Mr. PERKINS. So far as I can do so, I accept the amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. In the first paragraph of the line, after the word "and," where it appears the second time, it is proposed to insert "when they reach the age of 70 years."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. NELSON. Mr. President, will the Senator from California yield to me for a moment?

Mr. PERKINS. For what purpose?

Mr. NELSON. I desire to submit a conference report on the river and harbor bill.

Mr. PERKINS. I will yield that the report may be submitted.

RIVER AND HARBOR APPROPRIATION BILL—CONFERENCE REPORT.

Mr. NELSON. I present the conference report and will ask to have it taken up as soon as the naval bill is disposed of.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 11, 14, 22, 26, 28, 33, 38, 48, 49, 53, 57, 64, 66, 69, 77, 78, 79, 92, 120, 121, 122, 123, 124, 126, and 133.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 10, 13, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 27, 29, 30, 31, 32, 36, 37, 45, 46, 51, 52, 55, 58, 60, 61, 62, 63, 65, 67, 70, 72, 73, 74, 75, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 91, 94, 96, 97, 98, 99, 101, 103, 104, 106, 108, 109, 110, 111, 112, 114, 116, 117, 118, and 119, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "or city shall" and insert in lieu thereof the words "and City"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "; completing improvement of the channel up to the Main Street Bridge in accordance with the report submitted in House Document No. 1333, Sixty-first Congress, third session, $235,700; in all $255,700"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: In lieu of the sum proposed restore the sum stricken out, and in the first line of the amended paragraph strike out the word "Continuing" and insert in lieu thereof the word "Completing"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In the sixth and seventh lines of the language proposed strike out the words "that the appropriation of $100,000 therein contained, namely," and at the end of the language proposed strike out the period and insert a colon and the following: "*Provided further*, That nothing in this act shall be construed as relieving the said Florida East Coast Railway Co. from the obligation of complying with the terms of its contract heretofore entered into with the United States"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: After the word "session" insert the words "and subject to the conditions therein specified," and in lieu of the sum of "$1,100,000" insert "$900,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the language proposed, insert the following:

"Improving Houston Ship Channel, Texas: The Secretary of War may enter into a contract or contracts for, or construct, two suitable dredging plants, to be used for the maintenance of the channel when completed under the existing contract authorized by the act approved June 25, 1910, to be paid for out of any unexpended balances of appropriations heretofore made or authorized together with such additional appropriations as may from time to time be made by law, not to exceed in the aggregate $200,000: *Provided*, That a like amount of $200,000, or so much thereof as may be necessary, being one-half of the estimated cost of said dredging plants, be contributed and furnished by the Harris County Ship Channel Navigation District, to be expended in connection with the $200,000 herein authorized to be appropriated for the purchase or construction of said dredging plants: *Provided further*, That before letting the contract for the construction of each dredging plant or beginning the work of its construction, said navigation district shall place to the credit and subject to the order of the Secretary of War, in a United States depository to be designated by him, the sum of $50,000, and shall satisfy him that the remainder of one-half of the cost of said dredging plant will be deposited in like manner from time to time as called for by him."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In the proposed amendment, before the words "C. B. Comstock," insert the word "General"; and the Senate agree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered 42 and 43, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"Improving Brazos River, Tex.: Continuing improvement from Old Washington to Waco by the construction of locks and dams heretofore authorized, $250,000; continuing improvement

and for maintenance by open-channel work from Velasco to Old Washington, $25,000; in all, $275,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In the proposed amendment, before the words "C. B. Comstock," insert the word "General"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"Improving White River at Devall Bluff, Ark.: Completing improvement in accordance with the report submitted in House Document No. 1259, Sixty-second Congress, third session, and subject to the conditions therein specified, $8,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"Improving harbor at Arcadia, Mich.: For maintenance, including repair of the north pier, $20,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"Improving Clinton River, Mich.: For maintenance, $10,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "$24,000, of which amount not exceeding two-thirds may be expended for the improvement of that portion of said river above and to the westward of Ogden Street Bridge, in accordance with the report submitted in House Document No. 419, Fifty-sixth Congress, first session"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the language proposed, insert the following: "which shall be considered extraordinary emergency work, and which may be done, in the discretion of the Secretary of War, by hired labor or otherwise, and without regard to limitation of hours"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the language proposed, insert the following: "; completing improvement in accordance with plan numbered one in report submitted in House Document numbered thirteen hundred and nine, Sixty-second Congress, third session, $208,786; in all, $243,786"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows: After the word "Oregon," in the language proposed to be inserted, insert the following: "in accordance with the report submitted in House Document Numbered 13, Sixty-second Congress, first session," and omit the semicolon after the word "interest"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: After the word "channels," in the second line of the language proposed, in lieu of the word "for" insert the word "or," and in the third line, in lieu of the word "improved" insert the word "made"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agreed to the same with an amendment as follows: In lieu of the language proposed insert the following: "Lynn Harbor and Saugus River, Mass., with a view to providing a channel 15 feet deep up to the bridge at East Saugus"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment as follows: After the word "Creek" insert the word "Norfolk"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment as follows: In lieu of the word "Pollockville" insert the word "Pollocksville"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Key West, Fla., for a harbor of refuge and a safe anchorage for vessels"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: After the word "Bay," where it first occurs, insert the word "Florida"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Ohio River above the dam at Louisville, Ky., with a view to protection against overflow caused by Government work"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the word "twenty-five" insert the word "twenty-one"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: After the word "River" insert the words "California and Arizona"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with amendment as follows: After the word "River" where it first occurs insert the word "California"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"SEC. 8. That the Secretary of War is hereby authorized to receive from private parties such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized work of public improvement of rivers and harbors whenever such work and expenditure may be considered by the Chief of Engineers as advantageous to the interests of navigation."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered 127, 128, 129, 130, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"SEC. 9. That in the preparation of projects under this and subsequent river and harbor acts, unless otherwise expressed, the channel depths referred to shall be understood to signify the depth at mean lower low water in tidal waters and the mean depth during the month of lowest water in the navigation season in rivers and nontidal channels, and the channel dimensions specified shall be understood to admit of such increase at the entrances, bends, sidings, and turning places as may be necessary to allow of the free movement of boats."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows: In lieu of the number "13" insert the numeral "10"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: In lieu of the number "14" insert the numeral "11"; and the Senate agree to the same.

KNUTE NELSON,
WILLIAM ALDEN SMITH,
F. M. SIMMONS,
Managers on the part of the Senate.

S. M. SPARKMAN,
JOSEPH E. RANSDELL,
GEORGE P. LAWRENCE,
Managers on the part of the House.

Mr. BORAH. Mr. President, may I ask the Senator, Is this a final report?

Mr. NELSON. It is a final report.

Mr. BORAH. What are the amendments from which the Senate conferees have receded?

Mr. NELSON. Well, there are a number of them. The principal amendments from which we receded are seven. When the bill was put in conference the House conferees insisted that the conferees should not act upon it before those amendments were submitted to the House. I will read the amendments.

Mr. PERKINS. Will the Senator from Minnesota allow us to proceed with the consideration of the naval appropriation bill?

Mr. NELSON. The Senator from Idaho asked me a question.

Mr. BORAH. I will defer the question, then, until the naval bill is disposed of.

NAVAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 28812) making appropriations for the naval service for the fiscal year ending June 30, 1914, and for other purposes.

Mr. GALLINGER. Mr. President, I have been so much engaged in other duties of late that I have paid no attention to the naval appropriation bill, and I now ask unanimous consent to return to page 25 that I may offer an amendment.

The PRESIDING OFFICER (Mr. BRANDEGEE). The Senator from New Hampshire asks unanimous consent to return to page 25 for the purpose of offering an amendment. Is there objection? The Chair hears none.

Mr. GALLINGER. I observe, Mr. President, that in dealing with navy yards there has been great generosity displayed toward certain yards, but painful impecuniosity toward the navy yard at Portsmouth, N. H. I was on the Naval Committee for a good many years, and I am afraid I made a mistake when I retired from it. For some reason or other the estimates for Portsmouth were very small this year. Only two items, aggregating $15,000, have found their way into the bill for that yard, while certain other navy yards have been allowed from $100,000 to $250,000.

There were only two other small items estimated for, and I move to insert them on page 25, line 21. I send the amendment to the desk.

The PRESIDING OFICER. The amendment will be stated.

The SECRETARY. On page 25, line 21, after "$6,000," it is proposed to strike out "in all, $15,000" and insert the following:

Central administration building, $20,000; roadway to hospital, $7,000; in all, $42,000.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, under the subhead "Bureau of Supplies and Accounts," in the item of appropriation for provisions for the Navy, on page 36, line 4, after "$7,593,441.75," to insert "to be available until the close of the fiscal year ending June 30, 1915," so as to read:

Provided, That the Secretary of the Navy is authorized to commute rations for such general courts-martial prisoners in such amounts as seem to him proper, which may vary in accordance with the location of the naval prison, but which shall in no case exceed 30 cents per diem for each ration so commuted; and for the purchase of United States Army emergency rations as required; in all, $7,593,441.75, to be available until the close of the fiscal year ending June 30, 1915.

The amendment was agreed to.

Mr. PERKINS. I offer an amendment on behalf of the committee.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 36, after line 5, it is proposed to insert:

Provided further, That from and after the passage of this act all awards of contracts for provisions for the Navy shall be made by individual items, the contract for each item being awarded to the lowest responsible bidder.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, in the item of appropriation for maintenance, Bureau of Supplies and Accounts, on page 36, line 23, after the word "exceed," to strike out "$520,000," and insert "$550,000," so as to make the proviso read:

Provided, That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for chemists and for clerical, inspection, and messenger service in the general storehouses, and paymasters' offices of the navy yards and naval stations for the fiscal year ending June 30, 1914, shall not exceed $550,000; in all, $1,470,000.

The amendment was agreed to.

The next amendment was, on page 37, after line 4, to insert:

Naval Academy dairy: For the purchase of the necessary land for the location of the Naval Academy dairy, at some point in the vicinity of Annapolis, Md., convenient for communication and for the transportation of dairy products from the location of the dairy to the Naval Academy, and for the transfer to new dairy site, and rerection thereon, of buildings belonging to the present dairy, the repair and alteration of such buildings as may be found on the land to be purchased, and for all other necessary purposes connected with the establishment of a dairy on such land, $100,000: *Provided*, That the cost of said land shall not exceed $75,000: *Provided further*, That the amount appropriated for this purpose shall be treated as an advance to the midshipmen's store fund at the Naval Academy, to be ultimately repaid to the United States: *And provided further*, That expenditures hereunder shall be reported by the Chief of the Bureau of Supplies and Accounts to the Secretary of the Navy in the same manner as now prescribed by law for the midshipmen's store fund.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Construction and Repair," in the item of appropriations for the construction and repair of vessels, on page 39, line 2, after the word "material," to insert:

Provided further, That nothing herein contained shall deprive the Secretary of the Navy of the authority to cause the necessary repairs and preservation of the U. S. S. Constellation, Portsmouth, and Olympia: *Provided further*, That from and after the passage of this act all awards of contracts for provisions for the Navy shall be made by individual items; the contract for each item being awarded to the lowest responsible bidder.

Mr. PERKINS. I offer an amendment to the amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. In the amendment of the committee, on page 39, line 6, it is proposed to strike out:

Provided further, That from and after the passage of this act all awards of contracts for provisions for the Navy shall be made by individual items; the contract for each item being awarded to the lowest responsible bidder.

Mr. LODGE. That provision has been inserted as an amendment on page 36, after line 5. This amendment is to strike out the provision on page 39.

The PRESIDENT pro tempore. The Chair observes that. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 40, after line 9, to insert:

Wrecking pontoon: For construction or purchase of a testing and wrecking pontoon for submarines, to be available until expended, $300,000.

The amendment was agreed to.

The next amendment was, under the subhead "Naval Academy," at the top of page 44, to insert:

The President is hereby authorized to appoint, by and with the advice and consent of the Senate, A. J. Corbesier, a swordmaster at the United States Naval Academy, to be a first lieutenant in the United States Marine Corps as an extra number, not in the line of promotion.

The amendment was agreed to.

The reading of the bill was continued to line 24 on page 43.

Mr. MARTINE of New Jersey. Mr. President, I desire to insert, at the bottom of page 43, the amendment which I send to the desk and ask to have read.

The SECRETARY. On page 43, after line 24, insert:

That professors who have or shall hereafter have served 25 years at the Naval Academy may, on the recommendation of the Secretary of the Navy, be commissioned as professors of mathematics with the rank of lieutenant commander, to be additional to the number allowed by existing low: *Provided*, That for pay and other purposes service as an instructor or professor at the Naval Academy previous to being commissioned shall count as service in the Navy: *Provided further*, That 25 years of completed service at the Naval Academy shall be taken as fulfilling all legal requirements for appointment and commission, and that, for the purposes of this act, limitations as to age at the time of appointment shall not apply, nor shall age constitute a claim for retirement.

Nothing in the above provision shall operate to create a claim for back pay.

Mr. MARTINE of New Jersey. Mr. President, I am fortified in presenting this amendment by the opinion and letter of the Secretary of the Navy. A portion of it I will send to the desk and ask to have read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

[No. 31.]

PROFESSORS AT NAVAL ACADEMY.

DEPARTMENT OF THE NAVY,
Washington, January 17, 1913.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
House of Representatives.

MY DEAR MR. CHAIRMAN: Referring to your letter transmitting, on behalf of the Committee on Naval Affairs of the House of Representatives, a bill (H. R. 27575) "providing that certain professors at the United States Naval Academy shall be commissioned as professors of mathematics with the rank of lieutenant commander," I have the honor to inform you that the Bureau of Navigation of this department, which has general supervision over the personnel of the Navy and, also, of Naval Academy affairs, has reported upon this bill as follows:

"(a) Four professors now at the Naval Academy would be eligible for commission on the passage of this bill, their length of service varying from 26 to 39 years.

"(b) Other civilian professors and instructors now at the academy would become eligible, if retained continuously in the service, as fol-

lows: 1 in 1919; 2 in 1925; 4 in 1928; 3 in 1929; 4 in 1931; 4 in 1933; 3 in 1934.

"(c) There are now 9 professors, 19 instructors; total 28, at the Naval Academy. The appropriations for the fiscal year 1914 provide for 6 less instructors, or a total of 22. Next year a further reduction to 16 is intended.

"A number of civilian professors and instructors will always be required at the Naval Academy as permanent assistants to certain heads of departments and to teach modern languages. At outside educational institutions provision is usually made for the retirement of professors at about 65 years of age, if they have served for 25 years or more; or after 25 years' service they may be pensioned for disability, or pensioned for the same cause after less than 25 years' service, when the disability is directly traceable to this service. Similar provision should be made for the professors at the Naval Academy who have already had long service or who may thereafter come within the same category.

"The bureau's opinion is that the bill proposed (H. R. 27575) would meet the requirements for the Naval Academy, and accordingly recommends favorable action."

The department concurs in the recommendation of the Bureau of Navigation.

Faithfully, yours, G. v. L. MEYER.

Mr. MARTINE of New Jersey. That bill is embodied in the amendment which I have offered. The purpose, Mr. President, is to improve the personnel of the instructors at the Naval Academy. It is not only my opinion, but the opinion of others interested in naval matters, that this would advance the general well-being of the Naval Academy. I trust the amendment may be adopted.

The amendment was agreed to.

The reading of the bill was continued.

The next amendment was, on page 46, line 13, before the word "members," to strike out "five" and insert "seven," so as to read:

Hereafter the Board of Visitors to the Naval Academy shall consist of seven members of the Committee on Naval Affairs of the United States Senate and seven members of the Committee on Naval Affairs of the House of Representatives, to be appointed by the respective chairmen thereof, and the members so appointed shall visit the Naval Academy annually at such time as the chairman of the Board of Visitors shall appoint, and the Members of each House of Congress of said board may visit said academy together or separately as the said board may elect during the session of Congress.

The amendment was agreed to.

The next amendment was, under the subhead "Marine Corps," page 50, line 15, after the words "one draftsman, at," to strike out "$1,600" and insert "$1,800," so as to make the clause read:

In the office of the quartermaster: One chief clerk, at $2,000; 1 clerk, at $1,500; 2 clerks, at $1,400 each; 2 clerks, at $1,200 each; 1 draftsman, at $1,800.

The amendment was agreed to.

The next amendment was, on page 50, line 17, after the words "One chief clerk, at," to strike out "$1,400" and insert "$1,800," so as to make the clause read:

In the office of the assistant quartermaster, San Francisco, Cal.: One chief clerk, at $1,800.

The amendment was agreed to.

The next amendment was, on page 50, line 19, after the words "One chief clerk, at," to strike out "$1,600" and insert "$1,800," so as to make the clause read:

In the office of the assistant quartermaster, Philadelphia, Pa.: One chief clerk, at $1,800; 1 messenger, at $840; in the Quartermaster's Department, for duty where their services are required, 4 clerks, at $1,400 each.

The amendment was agreed to.

The next amendment was, under the subhead "Maintenance, Quartermaster's Department, Marine Corps," on page 51, line 15, after "$890,000, to insert: "No law shall be construed to entitle enlisted men on shore duty to any rations or commutation therefor other than such as are now or may hereafter be allowed enlisted men in the Army: *Provided, however*, That when it is impracticable or the expense is found greater to supply marines serving on shore duty in the island possessions and on foreign stations with the Army ration, such marines may be allowed the Navy ration or commutation therefor: *Provided*, That hereafter so much of this appropriation as may be necessary may be applied for the purchase, for sale to officers, enlisted men, and civilian employees, of such articles of subsistence stores as may from time to time be designated and under such regulations as may be prescribed by the Secretary of the Navy," so as to make the clause read:

Provisions, Marine Corps: For noncommissioned officers, musicians, and privates serving ashore; subsistence and lodging of enlisted men when traveling on duty, or cash in lieu thereof; commutation of rations to enlisted men regularly detailed as clerks and messengers; payment of board and lodging of applicants for enlistment while held under observation, recruits, and recruiting parties; transportation of provisions, and the employment of necessary labor connected therewith; ice for offices and preservation of rations, $890,000. No law shall be construed to entitle enlisted men on shore duty to any rations or commutation therefor other than such as are now or may hereafter be allowed enlisted men in the Army: *Provided, however*, That when it is impracticable or the expense is found greater to supply marines serving on shore duty in the island possessions and on foreign stations with the Army ration, such marines may be allowed the Navy ration or commutation therefor: *Provided*, That hereafter so much of this appropriation as may be necessary may be applied for the purchase, for sale to officers, enlisted men, and civilian employees, of such articles of subsistence stores as may from time to time be designated and under such regulations as may be prescribed by the Secretary of the Navy.

The amendment was agreed to.

The next amendment was, on page 52, after line 3, to insert:

Hereafter so much of this appropriation as may be necessary may be applied for the purchase, for sale to officers, enlisted men, and civilian employees, of such articles of subsistence stores as may from time to time be designated and under such regulations as may be prescribed by the Secretary of the Navy.

The amendment was agreed to.

The next amendment was, under the subhead "increase of the Navy," on page 57, line 4, after the word "constructed," to strike out "one" and insert "two"; in the same line, after the word "first-class," to strike out "battleship" and insert "battleships," so as to read:

That for the purpose of further increasing the Naval Establishment of the United States the President is hereby authorized to have constructed two first-class battleships, carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and greatest desirable radius of action, and to cost, exclusive af armor and armament, not to exceed $7,425,000.

Mr. PAYNTER. Mr. President, I desire to make a few observations in support of the amendment reported by the committee.

Mr. President, there are two great purposes to be accomplished in the construction and maintenance of a Navy for this country. One is to prevent war, and the other, if war should come, to insure our safety against the attack of any great naval power.

In every emergency that has confronted this country, and in nearly every war, our Navy has protected and shielded our national honor, and except for which our country would not have the prestige and power which it now enjoys.

The Civil War was brought to a successful close in a large measure because the Federal Government was enabled to place a line of ships around the States which were engaged in war against the Federal Government, thus preventing the Confederacy from receiving the resources it much needed from other parts of the world. No country should delay preparation until involved in war, for it takes years to construct battleships. To prepare in time of peace for war is a measure of economy and safety. War is expensive; it means the destruction and exhaustion of the resources of the country. However much we may desire to escape war, we can not hope that we will always be able to do so. While we should cultivate a desire for peace, we would be too sanguine if we hoped to escape that which has befallen other nations. War may come at any time, and sometimes when least expected. If it should be our misfortune to be forced into a war, we can no longer select the place of battle as we could do in the early days of the Republic.

We now have possessions thousands of miles distant from our shores. While I consider it a great misfortune that our country should have been forced to take possession of the Philippine Islands and be burdened with the duty of administering their government, still our Government must, for the present at least, be dominant there, and so long as our flag floats above its public institutions we must protect it. While we retain these islands, we are under a sacred obligation to protect the people there and give them a good government.

In my opinion, by reason of such possessions, we have increased our danger of war, and have made it necessary to maintain a much larger Navy than we would have otherwise been required to do. We now have to sail the world over to protect our territory and commerce. We are pledged to the Monroe doctrine, not an international law—and the only way that other nations can be made to respect it is by always having at hand the means for its enforcement. The money the two battleships would cost might save us from war, and if we should be so unfortunate as to have it, they might save the expenditure of millions of dollars in the future. And in addition to that, they might save the lives of thousands of our citizens, many women from widowhood, children from orphanage, and the Government an expensive pension roll.

I believe that a navy is the greatest safeguard we can possibly have against war; it will minimize our danger of such conflicts. It gives us the greatest promise of peace. While Senators may differ as to whether or not a navy will have the effect of preventing war, we all must agree that when such a dire calamity has befallen the country it was naval engagements which have brought peace. Two naval engagements produced peace between this country and Spain, besides saving the lives of countless numbers of the youths of the land. One naval engagement in the Sea of Japan brought peace to Japan and Russia. While the President of the United States exerted

the great power of his office for peace, and was instrumental in getting the Governments at war to consummate terms of peace, he would have been powerless to have done so except for the result of that naval engagement in which Japan's navy practically annihilated that of Russia.

In my opinion a large majority of our people want to see this country have an adequate navy. They are proud of the history of this country. They believe the only sure way to protect the character and dignity of the American name is by maintaining a large navy. Our countrymen recall with pride the names of Jones, Lawrence, Perry, Farragut, Dewey, and Schley, and many other of our illustrious naval heroes, whose deeds make bright the pages of our country's history.

Regardless of what may befall our Navy or our Nation, it can not obliterate those pages or diminish the pride of the American people in the deeds of valor of those who have fought our battles on rivers, lakes, and seas. The result of any war in which we may engage with any foreign country will be determined by engagements at sea. We do not need a large standing army, but we need a large navy.

During my service in the House of Representatives, which began 24 years ago, I favored suitable appropriations for our Navy. During that service I heard a very brilliant Member of the House oppose an appropriation for the Navy, and as an argument against it he urged that such advancements were being made in naval construction, that it was a waste of money to build ships, because they so soon become obsolete.

The argument did not then appeal to me, nor have I since thought well of it. If it were sound, then we should never have a navy, for the types of ships we may build from time to time may become obsolete. After the Battles of Manila Bay and Santiago I recalled with pleasure that I had in a small way contributed toward giving our country a sufficient navy to meet the then existing emergency. Notwithstanding the views which I have, I pray the time may come when universal peace may prevail and that the alarms of wars will not be heard in any country; but until universal peace is promised and guaranteed we can not neglect to maintain an adequate navy. It is an expensive establishment, but the cost is insignificant compared to the expense and calamities of war.

Since I have been a Member of this body I have voted for liberal appropriations for the Navy, and among my last official acts I want to be recorded as still favoring such appropriations. Let us not give up the ship.

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the committee.

Mr. BRISTOW. I think we want a roll call on this amendment, do we not?

Mr. LODGE. All right.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 57, line 4, strike out the word "one" and insert "two" and strike out the word "battleship" and insert "battleships," so as to read:

That for the purpose of further increasing the Naval Establishment of the United States the President is hereby authorized to have constructed two first-class battleships, carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and greatest desirable radius of action, and to cost, exclusive of armor and armament, not to exceed $7,425,000.

Mr. ASHURST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Arizona suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Lea	Root
Bacon	Cummins	Lodge	Sheppard
Bankhead	Curtis	McCumber	Shively
Borah	Dillingham	McLean	Simmons
Brady	Fletcher	Martine, N. J.	Smith, Ga.
Brandegee	Foster	Nelson	Smith, Md.
Bristow	Gallinger	O'Gorman	Smoot
Brown	Gardner	Oliver	Stone
Bryan	Guggenheim	Page	Sutherland
Burton	Hitchcock	Paynter	Swanson
Chamberlain	Jackson	Penrose	Thomas
Chilton	Johnston, Ala.	Perkins	Thornton
Clark, Wyo.	Kenyon	Pittman	Townsend
Clarke, Ark.	Kern	Poindexter	
Crane	La Follette	Pomerene	

The PRESIDENT pro tempore. Fifty-eight Senators have answered to their names. A quorum of the Senate is present.

Mr. PERKINS. I desire the Secretary to read a short statement from the Navy Department, which I send to the desk, giving the reasons for the construction of two battleships.

The PRESIDENT pro tempore. The Chair will state to the Senator from California that there is an amendment pending; but the document which the Senator from California sends to the desk will be read, without objection.

Mr. THOMAS. I desire to amend the amendment of the committee by the amendment which I send to the desk.

The PRESIDENT pro tempore. The Senator from Colorado submits an amendment to the committee amendment, which will be stated.

The SECRETARY. On page 57, line 4, after the word "constructed," it is proposed to strike out all down to and including line 13, on the same page, and in lieu thereof to insert:

One first-class battleship, carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and greatest desirable radius of action, and to cost, exclusive of armor and armament, not to exceed $7,425,000: *Provided*, That the money for the battleship herein authorized shall not be available unless said battleship shall be built in a Government navy yard.

Mr. OLIVER. That is the House provision.

Mr. PERKINS. I ask for the reading of the paper which I have sent to the desk.

Mr. LODGE. That amendment is simply the provision of the House bill.

The PRESIDENT pro tempore. It is substantially the provision of the House bill. The Chair will state that the question is upon the amendment on page 57, line 4, to strike out the word "one" and to insert the word "two."

Mr. THOMAS. Is the amendment which I have offered in order at this time? If not, I desire to offer it later on; or, if it is in order, to have it voted on at the present time.

Mr. LODGE. I think, Mr. President, that we ought first to perfect the text before an amendment is offered to strike out.

The PRESIDENT pro tempore. Yes.

Mr. THOMAS. I did not hear the Senator from Massachusetts.

Mr. LODGE. I said that I thought the Senator's motion was to strike out and insert, although it is substantially the same language as the language of the House bill, and we must perfect the text before a motion to strike out and insert is in order.

Mr. THOMAS. Then this will come up later?

The PRESIDENT pro tempore. The Senator's amendment as a substitute will be in order after the text is perfected.

Mr. BRANDEGEE. It is in order to submit an amendment to a committee amendment, is it not?

The PRESIDENT pro tempore. It is.

Mr. BRANDEGEE. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Senator from Connecticut submits an amendment to the committee amendment, which will be stated.

The SECRETARY. On page 57, line 4, before the word "first-class," it is proposed to strike out the word "two" and to insert the word "three." [Applause in the galleries.]

The PRESIDENT pro tempore. The Chair will admonish the galleries that expressions of either approval or disapproval are contrary to the rules of the Senate, and the Chair hopes they will not be repeated.

The SECRETARY. And on page 54, line 8, it is proposed to strike out "$7,425,000" and to insert "$11,150,000."

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Connecticut [Mr. BRANDEGEE] to the amendment of the committee.

Mr. BRANDEGEE. Mr. President, I wish to ask the Senator in charge of the bill whether we had not agreed upon a naval program several years ago to build two battleships each year?

Mr. PERKINS. The Senate made no declaration on the subject, I will say, Mr. President.

Mr. BRANDEGEE. The chairman of the committee says that no declaration was made in the Senate upon that subject. It may be that no declaration was made by formal vote of the Senate; but, so far as I was concerned, and I think so far as the country was concerned, it was considered that we had entered upon a program of building two battleships each year. Now I want to ask the chairman of the committee—if he has the information at hand, or if it is contained in the statement which he has sent to the desk, I will refrain from asking the question——

The PRESIDENT pro tempore. The Chair will state to the Senator from Connecticut that the Chair had overlooked the fact that the Senator from California [Mr. PERKINS] had sent a paper to the desk to be read. The paper will now be read.

The Secretary read as follows:

STATEMENT FROM THE NAVY DEPARTMENT.

FEBRUARY 27, 1913.

The President has declared that "Until peaceful means for settling all international controversies are assured to the world, prudence and patriotism demand that the United States maintain a navy commensurate with its wealth and dignity."

This additional battleship is essential to our peace and prosperity. It is required if we would maintain our national prestige and is a part of

the assurance of our national integrity. Its building, rather than being an expense to our people, should be regarded as a source of income in that its fabrication will furnish employment for thousands of workmen in practically all the allied trades throughout the entire country.

The command of the sea can only be attained through an adequate navy.

A battleship requires approximately three years for its construction. In time of actual or impending war the entire wealth of the United States would not permit of the purchase of such a vessel in the markets of the world.

The United States, with its wealth, its extensive coast line, the Panama Canal, the Monroe doctrine, can not be the first of the great world powers to deliberately reduce its naval strength; to do so is but to invite disaster.

The 13-inch guns of the *Oregon*, *Massachusetts*, and *Indiana*, and the 12-inch guns of the *Iowa*, *Kearsarge*, and *Kentucky* are of low velocity and short range when compared with batteries of the modern dreadnought. In a fleet action these vessels of ours would be annihilated by the modern high-powered vessel fighting from a range that would render them practically immune to any of our 12-inch or 13-inch shells.

By January 1, 1917, Germany will have 26 dreadnoughts in commission and the United States only 15, even if two are now appropriated for.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from Connecticut [Mr. BRANDEGEE] to the committee amendment.

Mr. BRANDEGEE. What I wanted to ask the chairman was for how many years have we fallen behind the program for two first-class battleships?

Mr. PERKINS. For one year.

Mr. BRANDEGEE. Last year we omitted to carry out that program. So if the amendment which I have just sent to the desk should prevail, it would make up for the deficiency of last year.

Mr. PERKINS. The Senator from Connecticut is correct.

Mr. BRANDEGEE. That is the reason why I have offered the amendment.

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

Mr. BRANDEGEE. I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and Mr. ASHURST responded to his name.

Mr. LEA. Mr. President, I ask that the amendment to the amendment be again stated.

The PRESIDENT pro tempore. That would be out of order, a response having been made on the roll call.

Mr. CLARKE of Arkansas. Mr. President, I think it is in order at almost any time for a Senator who is present and giving a fair degree of attention to inquire on a roll call what we are going to vote on.

The PRESIDENT pro tempore. In the absence of objection, the amendment will be again stated.

Mr. ASHURST. Mr. President, I do not object to a statement of the amendment to the amendment, but I had made a response on the roll call, and I simply call attention to the fact.

The PRESIDENT pro tempore. In the absence of objection, the amendment will be stated.

The Secretary again stated the amendment proposed by Mr. BRANDEGEE to the amendment of the committee.

The calling of the roll was resumed.

Mr. CHILTON (when his name was called). I announce my pair with the Senator from Illinois [Mr. CULLOM] and refrain from voting.

Mr. DILLINGHAM (when his name was called). In the absence of the senior Senator from South Carolina [Mr. TILLMAN], with whom I have a general pair, I transfer that pair to the Senator from Rhode Island [Mr. LIPPITT] and will vote. I vote "nay."

The roll call was concluded.

Mr. FOSTER (after having voted in the negative). I wish to inquire if the junior Senator from Wyoming [Mr. WARREN] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. FOSTER. I have a general pair with him, and therefore withdraw my vote.

Mr. SMITH of South Carolina. I have a pair with the Senator from Delaware [Mr. RICHARDSON], but I transfer that pair to the Senator from Tennessee [Mr. WEBB] and vote. I vote "nay."

Mr. MARTIN of Virginia. I desire to announce that the senior Senator from Mississippi [Mr. WILLIAMS] is unavoidably absent. He is paired with the senior Senator from Pennsylvania [Mr. PENROSE].

Mr. CHILTON. I desire to announce the pair of my colleague [Mr. WATSON] with the senior Senator from New Jersey [Mr. BRIGGS].

Mr. PENROSE. I want to state, in explanation of my vote—and I want a record made of it—the transfer of my pair with the Senator from Mississippi [Mr. WILLIAMS] to the Senator from New Mexico [Mr. CATRON].

Mr. SMITH of Michigan. I am paired with the junior Senator from Missouri [Mr. REED]. I transfer that pair to the Senator from Wisconsin [Mr. STEPHENSON] and vote. I vote "yea."

The result was announced—yeas 21, nays 47, as follows:

YEAS—21.

Bourne	Gallinger	Penrose	Sutherland
Bradley	Guggenheim	Perkins	Thornton
Brandegee	Lodge	Poindexter	Wetmore
Burnham	McLean	Root	
Chamberlain	Nelson	Smith, Mich.	
Clark, Wyo.	Oliver	Smoot	

NAYS—47.

Ashurst	Curtis	Kern	Pomerene
Bacon	Dillingham	La Follette	Sheppard
Bankhead	Fletcher	Lea	Shively
Borah	Gardner	McCumber	Simmons
Brady	Gore	Martin, Va.	Smith, Ga.
Bristow	Hitchcock	Martine, N. J.	Smith, Md.
Brown	Jackson	Myers	Smith, S. C.
Bryan	Johnson, Me.	Newlands	Stone
Burton	Johnston, Ala.	O'Gorman	Swanson
Clarke, Ark.	Jones	Page	Thomas
Crawford	Kavanaugh	Paynter	Townsend
Cummins	Kenyon	Pittman	

NOT VOTING—27.

Briggs	Dixon	Overman	Tillman
Catron	du Pont	Owen	Warren
Chilton	Fall	Percy	Watson
Clapp	Foster	Reed	Webb
Crane	Gamble	Richardson	Williams
Culberson	Gronna	Smith, Ariz.	Works
Cullom	Lippitt	Stephenson	

So the amendment of Mr. BRANDEGEE to the committee amendment was rejected.

The PRESIDENT pro tempore. The question now is on the amendment proposed by the committee, which will be stated.

The SECRETARY. On page 57, line 4, before the word "first-class," it is proposed to strike out "one" and insert "two."

Mr. BRISTOW. I ask for the yeas and nays on the amendment, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I again announce my pair. If I were at liberty to vote, I would vote "yea."

Mr. DILLINGHAM (when his name was called). Again I announce the transfer of my pair from the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from Rhode Island [Mr. LIPPITT] and will vote. I vote "yea."

Mr. SHEPPARD (when his name was called). My colleague, the senior Senator from Texas, is absent on business of the Senate. He is paired with the Senator from Delaware [Mr. DU PONT].

Mr. SIMMONS (when his name was called). Mr. President, I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I therefore withhold my vote.

Mr. ASHURST (when the name of Mr. SMITH of Arizona was called). I desire to announce that my colleague is absent from the Senate on important public business.

Mr. SMITH of South Carolina (when his name was called). Again announcing my general pair, I transfer it to the Senator from Tennessee [Mr. WEBB], and will vote. I vote "nay."

The roll call was concluded.

Mr. CHILTON. Mr. President, I am assured that my pair, if he were present, would vote as I wish to vote, and I therefore feel at liberty to vote upon this measure. I vote "yea."

The result was announced—yeas 55, nays 16, as follows:

YEAS—55.

Ashurst	Crane	Kavanaugh	Perkins
Bankhead	Crawford	Kenyon	Poindexter
Borah	Cummins	Lodge	Root
Bourne	Curtis	McLean	Sheppard
Bradley	Dillingham	Martin, Va.	Smith, Md.
Brady	Fletcher	Martine, N. J.	Smith, Mich.
Brandegee	Foster	Nelson	Smoot
Brown	Gallinger	Newlands	Stone
Bryan	Gardner	O'Gorman	Sutherland
Burnham	Guggenheim	Oliver	Swanson
Chamberlain	Hitchcock	Page	Thornton
Chilton	Jackson	Paynter	Townsend
Clark, Wyo.	Johnson, Me.	Penrose	Wetmore
Clarke, Ark.	Jones	Percy	

NAYS—16.

Bacon	Johnston, Ala.	McCumber	Shively
Bristow	Kern	Myers	Smith, Ga.
Burton	La Follette	Pittman	Smith, S. C.
Gore	Lea	Pomerene	Thomas

NOT VOTING—24.

Briggs	du Pont	Owen	Tillman
Catron	Fall	Reed	Warren
Clapp	Gamble	Richardson	Watson
Culberson	Gronna	Simmons	Webb
Cullom	Lippitt	Smith, Ariz.	Williams
Dixon	Overman	Stephenson	Works

So the amendment of the Committee on Naval Affairs was agreed to.

Mr. BACON. Mr. President, if I may be permitted a matter somewhat personal—in the way of privilege—I desire to state that I was unavoidably absent from the Chamber this afternoon when the vote was taken upon the question of the passage of the bill known as the Webb bill, the objections of the President notwithstanding. If I had been present I should have voted "yea." I was paired with the Senator from Minnesota [Mr. NELSON]; and he voted on the assurance that I would vote the same way he did.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 57, line 4, after the word "first-class," to strike out "battleship" and insert "battleships."

The amendment was agreed to.

Mr. PERKINS. I submit the following proposed amendments:

The PRESIDENT pro tempore. The amendments will be stated.

The SECRETARY. On line 5, page 57, it is proposed to strike out the word "carrying" and insert "each to carry," so as to read:

two first-class battleships, each to carry as heavy armor and as powerful armament as any vessel of its class.

The amendment was agreed to.

The SECRETARY. Also, on line 8, after "$7,425,000," to insert the word "each," so as to read:

not to exceed $7,425,000 each.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, under the subhead "Increase of the Navy," on page 57, line 9, after the word "*Provided*," to strike out "That the money for the battleship herein authorized shall not be available unless said battleship is built in one of the Government navy yards" and insert "That one of the battleships herein authorized shall be built in a Government navy yard," so as to read:

Provided, That one of the battleships herein authorized shall be built in a Government navy yard.

Mr. OLIVER. I offer an amendment to the committee amendment, which I will send to the desk.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. In line 13, page 57, after the word "yard," it is proposed to add:

If the estimated cost thereof is not more than half a million dollars above the price for which it can be built by contract.

Mr. OLIVER. I should like to have the amendment read as a whole.

The PRESIDENT pro tempore. The amendment will be read as it would read if amended by agreeing to the amendment just read.

The SECRETARY. So that, if amended, the proviso will read:

Provided, That one of the battleships herein authorized shall be built in a Government navy yard if the estimated cost thereof is not more than half a million dollars above the price for which it can be built by contract.

Mr. OLIVER. Mr. President, I am perfectly willing to keep our navy yards busy—or one of them—if it does not cost too much money. The Government has had considerable experience in building battleships at very great cost to itself. As an example, the *Florida* and the *Utah* were sister ships. The *Florida* was built in the Brooklyn Navy Yard, and her total cost was $6,299,295. Her sister ship, the *Utah*, of exactly the same type, built after the same plans, and identical with her in every way, cost $4,030,844, a difference in favor of the contract work of about $2,200,000. The *New York*, which was also built at the Brooklyn Navy Yard, was a sister ship of the *Texas*. The total contract price of the *Texas* was $5,830,000. The cost of the *New York* was $7,293,000.

That is not all, Mr. President. I will give, from the report of the Chief Constructor of the Navy, the cost of quite a number of ships that were built in navy yards and the amount that each one of them cost in excess of the sister ship that was built by contract at the same time and after the same plans.

The *Connecticut* was built in a navy yard at a cost of $374,000 more than the *Louisiana*, which was her sister ship.

The *Florida*, as I have said before, cost $2,269,000 more than the *Utah*.

The *Jupiter* cost $590,000 more than the *Cyclops*, which was her sister ship.

The *New York* cost $1,463,000 more than the *Texas*.

The *Cincinnati* cost $770,000 more than the formal proposals received from a contracting yard for the construction of the same ship.

The *Maine* cost $780,000 more than the limit of cost inside of which it was estimated that vessels of that type could have been contracted for.

Mr. O'GORMAN. May I ask where this information comes from?

Mr. OLIVER. This information comes from a communication sent to Congressman Foss, a Member of the House, by Rear Admiral Watt, the Chief Constructor of the United States Navy, dated the 25th day of this month.

Mr. O'GORMAN. Then it is authentic.

Mr. OLIVER. I want to say that if the Government is going to pay that much money for the purpose of having the ship constructed in her own yards, we are, in authorizing that, guilty of little less than a crime.

Mr. MARTINE of New Jersey and Mr. BACON addressed the Chair.

The PRESIDENT pro tempore. Does the Senator yield, and to whom?

Mr. OLIVER. I yield to the Senator from New Jersey, who first rose.

Mr. MARTINE of New Jersey. I should like to ask what evidence the Senator has that the ships built in the navy yards are not correspondingly better? The mere fact that we have saved a few dollars on the contract system does not prove that the product is necessarily as good. My own experience is, not as a shipbuilder but as a builder and an employer of men and a purchaser of material, that in 90 per cent of the instances where I have contracted I have been swindled; and where I have built my structure by day's work I have had a better building, and generally at a price not much in excess of the contract. And, even more, if there is an excess of a few hundred thousand dollars on the side of the vessel built by the Government the laborers and the mechanics have gotten the money, for, as a rule, 60 per cent of the cost at least is labor rather than material.

Mr. OLIVER. Mr. President, in reply to that, I might ask the Senator from New Jersey what evidence he has that the Government-built vessels are better than the contract-built vessels?

Mr. MARTINE of New Jersey. I have only my general experience.

Mr. OLIVER. I will not descend to that, but I will say this: In the first place, as a matter of fact, in actual service—this has been told me, and I have no doubt it may be verified by inquiry at the Navy Department—the *Utah* is infinitely superior in her action to the *Florida*. Furthermore, I will say that all of these vessels are built under Government supervision, under strict specifications. They must stand their trials. They must conform in every way to the requirements of the Government.

We can only assume that the contract-built ships are as good as the others, and as a matter of fact we all know that they are.

Mr. BACON and Mr. MARTINE of New Jersey addressed the Chair.

Mr. OLIVER. I yield now to the Senator from Georgia.

Mr. BACON. I desire to ask the Senator if it is not true that in each of those instances the Government-built vessels were built under the eight-hour law as to the time of labor?

Mr. OLIVER. I have no doubt in the world that is true, Mr. President.

Mr. BACON. And as to the contract-built vessels, there were no such restrictions?

Mr. OLIVER. But in these ships those restrictions will apply.

Mr. President, I am only asking that we shall not spend more than $500,000 additional on this ship to be built in a navy yard. I really think that is sufficient to give up for the privilege of building our own ships in navy yards. If they can be built for the same price, or anything approaching the same price, I say it is the best plan to build them in the navy yards.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Kentucky?

Mr. OLIVER. I yield to the Senator from Kentucky.

Mr. PAYNTER. I desire to ask the Senator whether the Navy Department has furnished any information upon the question of the relative value of the ships built by contract and those built in the navy yards?

Mr. OLIVER. Mr. President, I will say that I have no doubt that the ships built in the navy yards are just as good as the ships built by contract. I do not claim any superiority for the one over the other.

Mr. PAYNTER. What I was trying to find out was whether they were better than the others, in the opinion of the Navy Department.

Mr. OLIVER. I have no official information on the subject; but I understand that in actual practice, in this particular instance, the *Utah* works better than the *Florida*. But I will say, from my own experience with machinery, that that is a thing that is liable to happen. You can not tell the reason why in the case of two machines, two engines, built after exactly the same plans, running side by side, one will work easier than the other. Sometimes it may be called a matter of luck.

Mr. PAYNTER. Unless it is on account of the importance of keeping the navy yards going and in working condition, then, is there any good reason why we should pay a million or two dollars more for the same character of vessel in the case of the one built in the navy yard than in the case of the one we build under contract?

Mr. OLIVER. There is no reason whatever for favoring the one above the other. In either case we are giving employment to our own people; and what is the difference whether the men are employed in a Government yard or in a private yard? I say it is a little less than criminal to vote money away in this manner.

Mr. BACON. I will follow up my former inquiry by suggesting to the Senator that while there were formerly those differences in the hours of work of laborers employed on the one part by the Government and on the other part by the contractors, as to these ships all the work must be done under the eight-hour law, and consequently there will not be that difference which formerly existed.

Mr. OLIVER. Mr. President, I alluded a few minutes ago to the fact that they will all be built now under the eight-hour restrictions. Even with that, I am allowing in this amendment for an expenditure of $500,000 more on each one of these ships to have it built in a navy yard. My idea is that as one of these ships is to be built by contract, if the bid for that ship is $500,000 less than the estimated cost of the ship to be built in the Government navy yard, the second ship should be built by contract instead of in the navy yard.

Mr. BACON rose.

Mr. OLIVER. I yield.

Mr. BACON. I should like to inquire of the Senator if he can state what was the length of hours of labor in the case of contract-built ships?

Mr. OLIVER. I assume, Mr. President, that they were built under the two-shift plan, which practically is 10 hours' work for each man.

Mr. BACON. There is a difference of 20 per cent in the labor, not allowing——

Mr. OLIVER. I grant that, but I am not providing here that both these ships shall be let by contract. I am only providing that if a ship can be built for half a million dollars less by contract than it can in a Government navy yard, both of them working under the eight-hour restriction, then I say it may be better that it should be built by contract. If Senators will stand here and vote down this proposition I say they are blind to the interest of their country.

Mr. SIMMONS and Mr. O'GORMAN addressed the Chair.

Mr. OLIVER. I yield to the Senator from North Carolina.

Mr. SIMMONS. I wish to inquire of the Senator whether he does not think if the Government should go out of the business of shipbuilding, in that event the cost of building ships by private contract would be much greater than it is now?

Mr. OLIVER. No. There can not be more than two ships built in any one year, and with a half dozen big shipyards here, the competition is stronger and fiercer in that line of industry than in any other of the great industries of the country of which I have any knowledge. The Senator will certainly confess that these figures show it is not owing to Government competition that the shipyards have heretofore been able to build a ship at so much less cost than has the Government.

I yield now to the Senator from New York.

Mr. O'GORMAN. I want to ask the Senator from Pennsylvania whether in his opinion it is possible for any private shipbuilding company in this country at this time to construct a battleship cheaper than the Government can construct it in its navy yards, when it is remembered that under a statute which we passed a few months since it now becomes as necessary for the private constructor to employ his men upon an eight-hour basis as it is for the Government?

Mr. OLIVER. Mr. President, the Senator's question is simply the same question put in a different shape that the Senator from Georgia asked a few moments ago. My reply is it may be that the requirement of the law, which was passed at the last session of Congress, putting all shipyards and all Government work under the eight-hour restriction will so increase the cost to the contracting shipyards that the Government can build a ship as cheaply as they can. But if that is true, then this amendment will not work, because I am allowing a leeway of half a million dollars on each ship. In other words, if the Government can come within half a million dollars of the private party, then the Government builds the ship. If it costs the Government half a million dollars more than it costs the private party, then award it by contract, as any reasonable, fair-minded business man would do.

Mr. O'GORMAN. Does not the Senator from Pennsylvania think it advisable that this great Government should have in operation at all times well-equipped and efficient shipyards? If so, they can only be maintained by allowing the Government shipyards to build at least a portion of the battleships that are constructed.

Mr. OLIVER. If the Senator from New York and his party associates are willing to pay the piper, then let them do it.

Mr. BACON. I hope the Senator will answer that question. I rose to ask the same question the Senator from New York asked, and I desire to have it a little more direct in order that we may apply the Senator's reasoning to the conclusion which he wishes us to agree with him in.

If the Government should adopt the policy finally of building all its ships under the contract system, is it not true that the shipyards now equipped for the purpose of building ships must be dismantled, and would not the Government in the course of a few years be without any shipyard capable of building a battleship? Does the Senator think that it is proper that the Government should be put in that position? Is not a necessary consequence of the abandonment of those yards finally dismantling them and giving them up altogether?

Mr. O'GORMAN. And put the Government at the mercy of private shipbuilders.

Mr. OLIVER. I hope the Senator from New York will allow me to answer the Senator from Georgia. The Senator from Georgia uses the plural when the singular would answer better, because there is only one Government yard where ships can be constructed to-day, and that is the Brooklyn Navy Yard, adjoining the residence of the Senator from New York. There is no other navy yard——

Mr. O'GORMAN. Mr. President——

Mr. OLIVER. I insist on completing my sentence.

Mr. O'GORMAN. Will the Senator permit a correction? I am quite confident the Senator is not well advised as to the capacity of the Government shipyards. I think there is a shipyard in the State of Virginia that can build any one of these battleships just as well as the private concern in Pennsylvania, if it should secure one or both of these ships.

Mr. OLIVER. Mr. President, if that is the case it does not tally with my information. I understand that the Brooklyn Navy Yard is the only navy yard in the country that has the facilities for building these battleships.

Mr. O'GORMAN. Let me ask the Senator, did not the Mare Island shipyard in California build the *Oregon*? Did not the Government shipyard in California build the battleship *Oregon*?

Mr. OLIVER. The *Oregon* was built at the Union Iron Works, in San Francisco. Am I not right?

Mr. PERKINS. That is right.

Mr. OLIVER. The Philadelphia Navy Yard is a mere repair shop. The Brooklyn Navy Yard could be kept busy from one year's end to the other in repairs and in dock-yard work. It is not necessary to allow these navy yards to fall into disuse. It is not necessary to build ships in them. They could be used to the limit for repairs. I think I am within the limit in saying that there is not a single navy yard from one end of the country to the other in which a battleship can be built, except the Brooklyn Navy Yard. I am absolutely right on that. I know it is the case in regard to Philadelphia.

Mr. SMOOT. The modern battleship.

Mr. OLIVER. I am speaking of the modern battleship. Some of the smaller ships might be built here and the men kept busy.

The proposition before us, Mr. President, is just this: Are we ready to pay from 10 to 20 per cent more for one of these battleships than we do to the other for the privilege simply of saying it was built in a Government navy yard?

Mr. LODGE. Mr. President, it is very important for the welfare of the Navy, and, as I look at it, for the proper protection of the United States, that we should have our Government yards

able to build all kinds of ships for the Navy. We should never be left at the mercy of private yards. On the other hand, it would be a great misfortune if we had no private yards to turn to in time of emergency. It is in the interest of the Government that both should be maintained.

I think I am correct in saying that there is only one yard that can build the great battleships we are now building. But that does not affect the argument. The Norfolk yard, with such additions as are now being made in some of the provisions of this bill, will be able to build a battleship, if it is not already in a position to do it. The Boston yard, with the addition of a crane, such as we are giving to the Norfolk yard this year, has a dock large enough to build a battleship if properly supplied with slips and gantry cranes.

I regard it as very important to give work to these large yards, and I regard it also as important that the private shipyards should have a share of the Government work. It does not make me unhappy to think that American citizens are making money in shipbuilding; I have no objection to their making it if they can earn money in that way honestly. I should be very sorry to see either injured by any of our arrangements.

I am inclined to believe that under the present eight-hour system, which is now extended to private yards as well as to Government yards, the difference in cost, which has been very much reduced, is still somewhat in favor of the private yard.

I do not myself believe that if the amendment of the Senator from Pennsylvania is adopted it would make any difference as to the building of the ship. I think it will be built in the Government yard. I do not think there is any such difference as the increase in cost mentioned. I have not compared the figures since the eight-hour law went into effect in the private yards, but I have no idea that there would be such a gap between them. I think it is very well to build one battleship in the Government yards and allow the other great yards of the country to enter into competition. There is one in Virginia, one in Pennsylvania, and there is one in my State.

I think there is one in Delaware capable of building a big ship, but of that I am not sure. There is a very large yard certainly in Maryland capable of building anything short of a big battleship. I think it is well that those yards should have an opportunity to receive work also. Of course on the Pacific coast there is also an opportunity to build.

I see no objection to the amendment of the Senator from Pennsylvania, because I do not think it would have the effect or take any work away from the Government yards. But I think it is important that we should have one battleship built by the Government and the other open to competition among the great yards of the country.

Mr. SMITH of Maryland. May I ask the Senator a question? Does not the Senator think a provision of this kind would be an incentive, possibly, to more economical management on the part of the Government in building the ships?

Mr. LODGE. There is no question, Mr. President, that it is for the interest of the Government.

Mr. SMITH of Maryland. In view of that, is not this a good proposition?

Mr. LODGE. It is.

Mr. SMITH of Maryland. To put them on their guard.

Mr. LODGE. I think it would have an excellent effect because it would make it the interest of the officers in charge of those yards and the great body of men employed to give the best and quickest work, which means the lowest cost. I believe competition between Government yards and private yards is extremely valuable to the Government of the United States.

Mr. SMITH of Maryland. It is my judgment that a proposition of this kind would have a tendency to help the Government in battleship building by letting it be known that there is some competition in the building of ships.

Mr. LODGE. Certainly; I think so.

Mr. SMITH of Maryland. I believe the proposition is a good one and a healthy one.

Mr. BORAH. Mr. President, I am not very much interested in the competition between Pennsylvania and New York, but there is a disposition apparently to attribute the expensiveness to the eight-hour law or to the change which it would effect. There was plenty of evidence before the committee when it had under consideration the eight-hour bill to show that it would enlarge the expense very little. In fact, one of the great shipbuilders of England, who gave a statement which we secured, disclosed the fact that he built more cheaply under the eight-hour system than he did under the longer day system. It is apparent to anyone why it is that it is more expensive on the part of the Government to build; it is that the Government can not get the same amount of work out of parties that individuals can. But that is not due to the shortening or the lengthening of the day; and the statute which has been passed will have very little effect with reference to the expense.

Mr. LODGE. I think it has had more effect in putting the Government yards and private yards on a level. I think it has made their cost moderate and it has equalized their cost. Certainly in most of the yards I have inquired into the bids were lower under the nine-hour day than they are under the eight-hour day.

Mr. BORAH. I see why that can be, but we had plenty of evidence to the effect that it was not necessary it should be.

Mr. LODGE. I agree with the Senator; in the long run I do not believe it will add to the cost, but it has tended to equalize the cost between the Government yards and the others.

Mr. SMOOT. The great difference between the cost of the *Florida* and the *Utah*, amounting to over $2,250,000, certainly could not have been due to labor alone, because I believe the whole of the labor in the building of the *Utah* would hardly amount to $2,250,000. Therefore, there is more than the labor question involved in the difference between the cost of building a battleship by the Government and in private yards.

Mr. SMITH of South Carolina. Mr. President, I should like to ask the Senator from Pennsylvania, in view of the fact he has suggested a difference of half a million dollars between the work by the Government and by a private party—even in view of the eight-hour law obtaining—as he is an experienced machinist and has some knowledge of this business, to what does he attribute the marvelous difference we have as between the private corporation and the Government in building these vessels? It might be of interest to those of us who have these things in charge to know.

Mr. OLIVER. Mr. President, it is a very long proposition. Unfortunately, we all know as a rule it costs the Government, for one reason or another, and it costs any Government, I think, more than private parties to do the same kind of work. I do not charge it to mismanagement. I rather think that the Government officials are bringing their cost down. It may be, and I rather hope it will be, that when the bids come in for these battleships it will be found that, although I do not believe they can come down as low as private parties, they will come down so that there will not be a half million dollars difference, and perhaps there will not be half of that amount. If so, then I would say build in the Government yards.

Mr. SMITH of South Carolina. I should like to ask the Senator if he attributes to any great extent the difference between the private corporation and the Government to the cost of material to the Government? Is that material?

Mr. OLIVER. No; not at all; I do not think it makes a difference. My experience is that the Government gets its material of all kinds just as cheaply as any individual can get it. The Government's business is well looked after in that respect.

Mr. SMITH of South Carolina. But in the matter of managing labor and in the application of economic business rules the Government is not so strict.

Mr. OLIVER. It is the difference between a man looking after his own business and having a lot of hired men to look after it. There is the whole business.

Mr. JONES. Mr. President——

Mr. OLIVER. I yield to the Senator from Washington.

Mr. JONES. It may be of interest in connection with what the Senator from Pennsylvania has just stated in reference to the difference in the prices between the Government yards and the private yards, and I think it is entirely proper, to read a statement from an address by Mr. CALDER, February 26, in which he says:

> Only last week bids were asked for by the Navy Department for the building of the battleship *Pennsylvania*, with the result that the Newport News Shipbuilding Co. bid for the building of the *Pennsylvania* $7,275,000, and the New York Navy Yard bid on exactly the same plans, for exactly the same ship $7,303,000, or $28,000 more than the bid of the Newport News Shipbuilding Co.

Showing that the bids between the Government yards and private yards are getting very close together.

Mr. LODGE. Very close.

Mr. O'GORMAN. Mr. President, may I supplement what has been stated by the Senator from Washington with this fact? In the estimate of the New York Navy Yard, which was only $28,000 in excess of that of the private shipyard, there was embraced an item of $860,000 for overhead charges in the shipyard in Brooklyn. Those charges would be borne by the Government whether or not the yard was kept up to a high state of efficiency; whether the battleship was built there or not, there would be the same charge. If that $860,000 should be eliminated from the bid of the New York Navy Yard, the fact would be that the Government shipbuilding yard would build the *Pennsylvania* for nearly $700,000 less than the bid that was offered by the private shipbuilders.

Mr. OLIVER. Mr. President, the Senator from New York certainly is not ignorant enough of business customs not to know that in private enterprises overhead charges are included with costs, just the same as they are to the Government. In making a bid upon a ship a shipyard has to consider all of those things; and if the Government practice is becoming so much better that they can get toward the same cost as the private parties, then the amendment which I offer will not be operative and can do no harm.

Mr. O'GORMAN. The harm, Mr. President, might be this: If the private shipbuilding interests in this country could enter into a combination to build both of these battleships, even at a loss, they would demoralize and paralyze the Government shipyards and help to put them in a state of utter inefficiency, and then leave the Government at the mercy of the private shipbuilders of the country.

Mr. OLIVER. Mr. President, if the big concerns of the country enter into combinations to give us anything cheaper than we are getting it to-day, then let them come along and make their combinations; but that is not what they make combinations for. The combinations are made for the purpose of raising prices and not for the purpose of bringing them down.

The PRESIDENT pro tempore. The amendment to the amendment will again be stated.

The SECRETARY. On page 57, line 13, after the word "yard," it is proposed to insert:

If the estimated cost thereof is not more than half a million dollars above the price for which it can be built by contract.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment. [Putting the question.] By the sound the "noes" appear to have it.

Mr. OLIVER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I again announce my pair with the Senator from Illinois [Mr. CULLOM].

Mr. SMITH of South Carolina. I again transfer my pair with the Senator from Delaware [Mr. RICHARDSON] to the Senator from Tennessee [Mr. WEBB], and will vote. I vote "nay."

The roll call was concluded.

Mr. SIMMONS. I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. In his absence, I withhold my vote. If he were present, I would vote "nay."

Mr. CHILTON. I desire to announce for the day the pair of my colleague [Mr. WATSON] with the Senator from New Jersey [Mr. BRIGGS].

Mr. FOSTER (after having voted in the negative). The Senator from Wyoming [Mr. WARREN], with whom I have a general pair, is absent on business of the Senate, and I therefore withdraw my vote.

Mr. SHIVELY. I desire again to announce that the senior Senator from Mississippi [Mr. WILLIAMS] is paired with the Senator from Pennsylvania [Mr. PENROSE].

Mr. KERN. I desire to announce that the Senator from Oklahoma [Mr. GORE] is paired with the Senator from New Hampshire [Mr. BURNHAM].

The result was announced—yeas 28, nays 30, as follows:

YEAS—28.

Bankhead	Gallinger	Martin, Va.	Root
Brandegee	Guggenheim	Oliver	Smith, Md.
Brown	Jackson	Page	Smoot
Clark, Wyo.	Johnston, Ala.	Paynter	Swanson
Clarke, Ark.	Lodge	Penrose	Thornton
Curtis	McCumber	Percy	Townsend
Fletcher	McLean	Perkins	Wetmore

NAYS—30.

Ashurst	Gardner	Lea	Pomerene
Brady	Hitchcock	Martine, N. J.	Sheppard
Bristow	Johnson, Me.	Myers	Shively
Bryan	Jones	Nelson	Smith, S. C.
Burton	Kavanaugh	O'Gorman	Stone
Chamberlain	Kenyon	Owen	Thomas
Crawford	Kern	Pittman	
Cummins	La Follette	Poindexter	

NOT VOTING—37.

Bacon	Culberson	Lippitt	Sutherland
Borah	Cullom	Newlands	Tillman
Bourne	Dillingham	Overman	Warren
Bradley	Dixon	Reed	Watson
Briggs	du Pont	Richardson	Webb
Burnham	Fall	Simmons	Williams
Catron	Foster	Smith, Ariz.	Works
Chilton	Gamble	Smith, Ga.	
Clapp	Gore	Smith, Mich.	
Crane	Gronna	Stephenson	

So Mr. OLIVER'S amendment to the amendment of the committee was rejected.

The PRESIDENT pro tempore. The question recurs on the amendment of the committee.

The amendment was agreed to.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Colorado if he desires to offer a substitute?

Mr. THOMAS. If it is in order, I do.

The PRESIDENT pro tempore. The Chair thinks it is in order.

Mr. LODGE. If I may be heard, Mr. President, on the point of order, I do not think the amendment can be offered as in Committee of the Whole. That amendment provides for doing exactly what the Senate has voted not to do.

The PRESIDENT pro tempore. It is not for the Chair to determine as to the phraseology of the amendment.

Mr. LODGE. It proposes simply to restore the House provision, which we have amended.

The PRESIDENT pro tempore. To avoid a controversy, the Chair suggests that the Senator withhold the amendment until the bill gets into the Senate.

Mr. THOMAS. My only purpose is to be heard on the amendment before the bill is passed.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 57, after line 19, to insert:

One transport, to cost, exclusive of armor and armament, not to exceed $1,850,000.

The amendment was agreed to.

The next amendment was, on page 57, after line 21, to insert:

One supply ship, to cost, exclusive of armor and armament, not to exceed $1,425,000.

The amendment was agreed to.

The next amendment was, on page 57, line 24, after the word "Navy," to strike out "shall" and insert "may"; and in the same line, after the word "build," to strike out "the battleship authorized in this act in such navy yard as he may designate; and shall build," so as to read:

The Secretary of the Navy may build any of the other vessels herein authorized in such navy yards as he may designate, should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels, have entered into any combination, agreement, or understanding, the effect, object, or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels.

The amendment was agreed to.

The Secretary continued the reading of the bill, and read as follows:

Increase of the Navy; armor and armament: Toward the armor and armament for vessels heretofore and herein authorized, to be available until expended, $11,508,309.

Mr. ASHURST. Mr. President, I desire to propose an amendment at that particular point, which I now send to the desk and ask to have read.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 59, line 7, after the numerals, it is proposed to insert the following proviso:

Provided, That the Secretary of the Navy shall forward to Congress at the earliest practicable date a full report of all bids received by him relating to the purchase of armor, ship plates, and structural steel for the battleship or dreadnought purported to be named, when completed, the Pennsylvania, and that the Secretary of the Navy be, and he is hereby, directed not to award any contract for the purchase of steel, armament, armor, or ship plates until further directed by Congress.

Mr. LODGE. I shall have to ask that the amendment be again read.

The PRESIDENT pro tempore. The Secretary will again state the amendment.

The Secretary again read the amendment.

Mr. LODGE. That, Mr. President, of course would arrest the building of the ships authorized under this bill. It is clearly general legislation, and I make the point of order against it.

Mr. ASHURST. Mr. President, before the Presiding Officer gives his ruling upon the point of order, I wish to be heard on the amendment.

The PRESIDENT pro tempore. The Chair will hear the Senator.

Mr. ASHURST. With some reluctance I differ from the distinguished Senator from Massachusetts [Mr. LODGE], whose vast experience upon these matters gives him quite sound judgment; but I am unable to see that the point of order will lie, and believe after I have made a short statement, the necessity for, and the pertinency and propriety of, my amendment will become apparent.

I purpose that the amendment shall be retroactive in its character and relate to the bids which were opened about 10 days ago by the Secretary of the Navy.

The Armor Plate Trust is composed of the Carnegie Steel Co., of Homestead, Pa., subsidiary of the United States Steel Co.; the Bethlehem Iron & Steel Co., of Bethlehem, Pa.; and the Midvale Steel Co., of Philadelphia, Pa.

Bids were opened about 10 days ago by the Secretary of the Navy for approximately 8,000 tons of armor plate for the dreadnought *Pennsylvania*. These companies mentioned above were represented here by President Dinkey, of the Carnegie Co.; Vice President Johnston, of the Bethlehem Co.; and Vice President Petrie, of the Midvale Co. These gentlemen all stopped at one of the leading hotels here and were frequently in conference. As a consequence, when the bids were opened it occasioned no surprise to find that the bids did not vary a dollar a ton between the three companies and that the bids were in fact $25 a ton more than the price received by these companies on the last previous contract. In view of this apparent collusion of these three companies, comprising the Armor Plate Trust, it is inadvisable that the contract should be awarded without investigation. As it requires about three years to build a battleship, armor plate will not be needed for at least a year, and therefore no harm can come from a delay of a few weeks until this matter can be investigated.

I should like to have a vote at some time during the evening upon my proposed amendment.

Mr. LODGE. I have not the slightest objection to the inquiry which the Senator from Arizona proposes, but I do not want to arrest and delay the building of the ships. It takes a long time to construct a ship. The getting out of the designs on which the bids have to be based is a matter not of weeks, but often of months; then the bids take a long time. There will be ample opportunity for this inquiry to be made. All I object to in the amendment is the holding up of the ships which have been authorized. It would result, after ships have been started by the Government, in paralyzing the yard, and it seems to me that a proposition of that kind, which goes to the entire building of the ships, is new legislation, which fixes the time in which the ships shall be built.

Mr. ASHURST. As I said before, the armor plate called for in the bids will not be needed for nearly a year.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. LODGE] makes the point of order that the amendment is obnoxious to Rule XVI, it being general legislation on an appropriation bill.

Mr. ASHURST. I ask that the point of order be submitted to the Senate.

The PRESIDENT pro tempore. The point of order is so clear to the Chair that he feels it is incumbent on him to rule, and he sustains the point of order.

Mr. LODGE. The increase of one ship, made by the decisive vote of the Senate, necessitates a change in one or two of the totals.

On page 58, line 23, I offer an amendment, merely to make it correspond to the two ships instead of one.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 58, line 23, it is proposed to strike out "$18,230,728" and insert "$21,768,228."

The amendment was agreed to.

Mr. LODGE. On page 59, I offer the following amendment:

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 59, line 3, it is proposed to strike out "$370,000" and insert "$490,000."

The amendment was agreed to.

Mr. LODGE. Also the following.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 59, line 7, it is proposed to strike out "$11,508,309" and insert "$15,618,913."

The amendment was agreed to.

Mr. LODGE. Also the following.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 59, line 9, it is proposed to strike out "$33,462,312" and insert "$41,230,416."

The amendment was agreed to.

The reading of the bill was resumed and concluded.

The PRESIDENT pro tempore. The bill is in Committee of the Whole, open to amendment.

Mr. CURTIS. I offer an amendment to come at the end of the bill——

Mr. LODGE. Will the Senator allow me to make a request?

Mr. CURTIS. Certainly.

Mr. LODGE. I think I have made it before; but if not, I now make the request that the clerks may be authorized to correct the totals in the bill.

The PRESIDENT pro tempore. That order has been already made. The Senator from Kansas offers an amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

That any officer of the United States Navy who served creditably during the Civil War and whose name is now borne on the list of retired officers of the Navy shall have the benefit of all laws in the same manner and to the same extent as though such officer had been retired for disability incident to the service: *Provided*, That no increase of pay or allowance shall accrue prior to June 29, 1906.

Mr. CLARKE of Arkansas. I do not quite understand the purpose of that amendment being offered at this time. It is rather late; and to obviate the necessity of asking the Senator from Kansas to enlighten me, I will make the point of order that it is general legislation.

Mr. CURTIS. I hope the Senator will withhold that point.

Mr. CLARKE of Arkansas. No; I make the point of order.

The PRESIDENT pro tempore. The point of order is made that it is general legislation. The point of order is sustained.

Mr. SMITH of Maryland. After consulting with the chairman of the committee and other members, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 5, after line 8, it is proposed to insert the following as a new paragraph:

That the President of the United States be, and is hereby, authorized to appoint Worthington Goldsborough upon the retired list of the Navy in the grade of rear admiral of the lower number, from October 9, 1899.

Mr. BRISTOW. Mr. President, I should like to have an explanation of this amendment.

Mr. SMITH of Maryland. I will say that this is a man who has served in the Navy for over 50 years. He is now over 80 years of age. It is merely a compliment to him. There are precedents for it, and after consultation with quite a number of people we thought it would be a very nice thing to do for him in his old age.

Mr. BRISTOW. Is he on the retired list of the Navy now?

Mr. SMITH of Maryland. He is subject to duty as a paymaster.

Mr. BRISTOW. Is he on the retired list?

Mr. SMITH of Maryland. I think he is.

Mr. BRISTOW. At what rank was he retired?

Mr. SMITH of Maryland. A paymaster of the Navy.

Mr. BRISTOW. And it is proposed to make him a rear admiral?

Mr. SMITH of Maryland. That is the proposition.

Mr. BRISTOW. Is not that rather unusual?

Mr. SMITH of Maryland. I think not.

Mr. BRISTOW. How long has he been on the retired list?

Mr. SMITH of Maryland. I am unable to say.

Mr. JACKSON. Seventeen years.

Mr. SMITH of Georgia. I ask that the proposed amendment be restated.

The PRESIDENT pro tempore. The amendment will be again reported.

The Secretary again read the proposed amendment.

Mr. SMITH of Georgia. I make the point of order that that involves legislation, and also involves an appropriation.

The PRESIDENT pro tempore. The point of order is sustained, on the ground that it is general legislation on an appropriation bill.

Mr. POINDEXTER. I offer an amendment, to come in on line 11, page 8.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 8, after line 11, and after an amendment already inserted at that place, it is proposed to insert:

That Thomas Harrison, a clerk in class 4 at the United States Naval Observatory, now over 80 years of age, who has served in the Naval Observatory for 60 consecutive years, be retired from the service, and that in consideration of his long and faithful service he be paid the sum of $100 per month during the remainder of his natural life.

Mr. BRISTOW. Mr. President, that is practically putting this civil employee on a pension roll at $100 a month, is it not?

Mr. POINDEXTER. It is retiring him, putting him upon the basis of a retired naval employee. It may be called a pension; it may be called by any other name. The case is a very exceptional one, the only case I know of in the Navy in which an employee has served consecutively over 60 years. The man is now over 80 years of age, and the alternative which confronts the Government is to turn him out without a dollar, or to recognize his exceptionally long service by retiring him upon part pay. He now draws $1,800 a year.

Mr. SMOOT. Do I understand the Senator to say that he is simply a civil employee?

Mr. POINDEXTER. He is a clerk attached to the Naval Observatory.

Mr. SMOOT. And the Senator's proposition is to give him a hundred dollars a month for the balance of his life?

Mr. POINDEXTER. For the balance of his life.

Mr. SMOOT. I make the point of order that it is general legislation on an appropriation bill.

The PRESIDENT pro tempore. The point of order is sustained.

Mr. BRANDEGEE. I do not know whether it has been corrected or not, but, on page 7, at the end of line 3, there is a typographical error. The letter "s" has been displaced after the word "employee." It appears at the end of the next line. It should be corrected.

The PRESIDENT pro tempore. The correction will be made. Are there further amendments as in Committee of the Whole? If not the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

Mr. THOMAS. Mr. President, is my amendment now in order?

The PRESIDENT pro tempore. It is in order.

Mr. LODGE. Have the amendments made as in Committee of the Whole been concurred in?

The PRESIDENT pro tempore. They have not yet been concurred in.

Mr. THOMAS. I send my proposed amendment to the desk.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 57, line 4, after the word "constructed," it is proposed to strike out the remainder of the paragraph and insert:

One first-class battleship carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and greatest desirable radius of action, and to cost, exclusive of armor and armament, not to exceed $7,425,000: *Provided*, That the money for the battleship herein authorized shall not be available unless said battleship shall be built in a Government navy yard.

Mr. THOMAS. Mr. President, the amendment which has just been read is designed to restore the bill to its original condition, or as it came from the House to the Senate. It provides for the building of one battleship instead of two.

Individually, I am not in favor at this time of building any additional vessels of this class; but I am perfectly willing to accept the provision made by the House, in view of the short interval between now and the adjournment of this Congress and the consequent difficulty of properly considering the many aspects of the subject.

The leading nations of the world have been for some time engaged in a mad competitive race of naval construction. The principal cause of this condition lies in the fact that each seems to labor under the apprehension that the others will outstrip it in that race unless it makes continued and increased exertions in the same direction.

Apart from the apprehension which is caused by the number of ships in construction by other countries, the principal reason assigned for this enormous increase in the naval armaments of the world is that it is necessary for the protection of the respective countries from the hostile designs of others and for the promotion of peace; that if any of these nations become laggards in the race their exposed frontiers and known weaknesses will invite invasion, aggression, or the assumption of such rights, actual or pretended, or the making of such demands as will result in war which in turn will result in disaster.

Another reason given for the construction of a great and constantly increasing Navy in this country is, that it is essential to our enforcement of the principles of the Monroe doctrine, and that without a great array of battleships of the most complete and modern design, construction, and equipment, that doctrine may at any time be imperiled, if indeed it would not be entirely overthrown. Hence it is said that we must, for these imperative reasons, expend large sums of money every year for the construction of huge instruments of naval conflict, and that it is not only a duty, demanded by the impulse of patriotism and the imperative law of self-defense, for us to do this, but that a failure to recognize and perform the obligation would fall little short of treason to the Republic.

If these reasons were actual, if they were well founded, there would be ample justification for these expenditures and appropriations; the necessity resting upon the Congress of the United States requires the expenditure as the supreme requirement of the hour. But I deny their soundness. It must be confessed, Mr. President, that they have been very effective, and may continue to be effective for the purpose in hand. When they cease to be so, others may be suggested along similar lines, having for their purpose the same ultimate result.

It has been said here that we must have a great Navy; that, as a first-class power we must take our rank and keep it among the nations of the earth, because our position imposes obligations that can not be sustained if we are not at all times fully prepared for possible ruptures with other nations. The point seems to be ignored, Mr. President, that we have a great Navy, or else the vessels which we have constructed have become obsolete in design and no longer effective in their equipment.

And if that be true, then it must follow that those which we now propose to construct must in due course of time, and probably before they are completed, become equally ineffective for the purposes for which they are built. The bill, as it came from the House, makes appropriations aggregating $146,818,364.53. That is an excess over the last appropriation of $23,666,825.78. Of this sum $46,000,000 are devoted to the completion of vessels heretofore authorized, not for new construction, but for the construction of vessels heretofore authorized and which are presumably in process of construction, some of them, perhaps, more nearly advanced to completion than others. For the new vessels for which this act makes provision there is appropriated $18,946,325, leaving a balance to be appropriated in future years for their completion of $27,477,600. This illustrates the constantly increasing demand upon the public revenues in order to keep pace with this constantly increasing race between the nations for supremacy upon the sea.

We have expended for the construction of vessels during the past 10 or 15 years, inclusive of the cost of completion of those which are now unfinished, something like $250,000,000. I therefore maintain that we either at present have a first-class Navy sufficient for all purposes of the present, the immediate future, or else we have made all this huge expenditure practically without result.

If, on the other hand, we have secured a considerable Navy, then may it not be better policy to complete the unfinished vessels, and particularly for some reasons to which I will advert a little later on, than at present increase the burdens of the tax payers by making provision for two battleships at a cost of considerably over $16,000,000 apiece?

My information is, Mr. President, that the American Navy consists of 277 vessels of all kinds, of which 38 are battleships; 33 of these are in commission. We have 11 armored cruisers; we have 63 submarines, of which 47 are in service; we have 28 torpedo boats and 54 destroyers, with 5 battleships uncompleted and in process of construction.

I shall not attempt at this late hour to make any comparison between the number of our vessels, the size and efficiency of their guns, or any other comparisons even of the most general nature with those of other countries, because the hour is too late to justify it. But I want to call attention to the fact that our Navy, small and inefficient as a great many people seem to think and as a great many Senators contend, is not so deficient as is their equipment in officers and in men. We lack 3,000 officers for the vessels already constructed, and our deficiency in men amounts to 6,000. So of the Navy which we have, the number of men necessary and essential to its operation and efficiency is sadly lacking. Three thousand naval officers represent a number which would require our naval school 20 years to fill from the graduates with which it annually supplies the country. Besides, there is the deficiency of 6,000 men in these times of peace. If a large Navy is essential for the purpose of insuring peace, our deficiency in officers and men is a grave one, and it justifies the inquiry where we are going to obtain the men and the officers for our unfinished battleships, to say nothing of these two battleships after they shall have been constructed.

Now, Mr. President, would it not be well to attempt, through our appropriation bill and by the exercise of other agencies, to man the vessels that we already possess before we construct others, which must be ineffective and useless because they can not be supplied with officers and marines?

It seems to me that under these conditions every element of good business principles and business judgment would suggest a suspension of our policy of shipbuilding until we shall have thoroughly manned and officered the vessels that we already have builded. By this process only can we place our Navy in the very highest state of efficiency. When the vessels uncompleted shall have been finished, and for which large appropriations are carried by this bill, then, Mr. President, some provision must be made for officering and for manning them, or our condition will be quite as helpless with as without them.

I am entirely ignorant of the causes of this situation or of the efforts which may have been made to remedy it. There are

those in this Chamber who, of course, are better posted than I am as to why we have not the officers and the men that are necessary for the vessels which are in commission; but certainly every element of business precaution and of wise administration requires that instead of increasing the number of our vessels for which we have no men and no officers, we should make provision, and make it at once, for supplying the latter. This is the requirement of to-day. Let us place the vessels which we have in a high state of efficiency. This is the duty of the present; we only increase it by postponing its performance to the building of more battleships.

Then there is the matter of transports. A navy, in order to be at all effective when needed, requires a fleet of transports of sufficient capacity at all times for the demands of the fighting arm. In other words, a navy without such transports is virtually like a railway without any freight equipment.

Mr. President, I shall occupy no more time in a further discussion of facts and figures.

I therefore turn, Mr. President, to another phase of the subject. The total appropriation for the Agricultural Department, which I consider the most important of all the departments of the Government at this time, is just about the equivalent of the cost of one battleship. We spend upon each of these great monsters of destruction $16,000,000 to $18,000,000, which, we are told, become to a large extent useless, if not obsolete, by the time they are completed. But a department which covers the continent, which relates to the oldest of human industries, which is converting it from an occupation into a science, which provides for man in all his relations in life, the pursuit upon which we all depend for existence, whose development constitutes the greatest asset of the future, knocks at the doors of the Congress of the United States for its annual appropriations and obtains only as much as is appropriated for the building of a single modern battleship useless before completion.

Mr. President, it is my firm conviction that the greatest guarantee of peace to any country is the development of its great agricultural and pastoral interests. From that development comes that yeomanry without which no nation can be great. There is the nursery of the men who after all must bear the brunt of battle and of conflict when it comes, and without whom all the navies in the world are as nothing. There is the ultimate source of our dependence not only for peace but for victory in the event of war.

And if we would give to this great department every facility for promoting the pursuits of agriculture in their varied forms to the end that every acre within our domain susceptible of cultivation may be made productive and habitable, if we would multiply families and anchor them to the soil, if we would maintain and promote the best guaranty of peace that any nation can enjoy, we should exalt the Agricultural above the Naval Department and multiply plowshares instead of battleships.

Navies are an essential, but an essential only, to the equipment of this Republic. When I consider that the millions upon millions of unproductive acres of this country might be brought into cultivation through improved methods and by increasing immigration, and that the populating of their vacant spaces constitutes the highest possible safeguard against all danger to this country, whether that danger comes from foes without or from foes within, I am amazed that we give it less consideration than any other of our great departments.

I do not mean to be understood, Mr. President, as unduly criticizing the niggardliness of the Government in this direction, for perhaps that department is given practically what its present requirements demand; but I want to institute a comparison between the few millions that are spent in that direction and which must necessarily be beneficial to all classes and conditions of men with the many millions that are annually devoted to the construction of these huge engines of war, the multiplication of which is defended by the pretense that they are essential to the peace and the welfare of the Nation, and without which we may be exposed to the perils of war because of the huge naval aggregations of Germany and of England and of France across the Atlantic and of Japan across the Pacific Ocean.

Mr. President, I have not observed that the existence of huge navies has tended particularly to the promotion of peace. It is not my reading of history that they lead nations away from war and from rumors of war. There is nothing in the events of the past 50 years to justify that conclusion. On the contrary, these huge aggregations of battleships are more apt to provoke hostilities than to prevent them. The man upon the streets who is armed is the man likely to seek a quarrel, and nations are simply aggregations of individuals. We are more liable to encounter the belligerency of the great powers of the world, or some of them, as they are more likely to encounter ours because of this mad race for supremacy in naval building competition than would otherwise be the case.

It is a singular thing in this connection that wars and rumors of wars are in these days coexistent with proposed appropriations for the building of battleships. Just about the time that Congress begins to consider this question we become apprehensive. Somebody imagines that Japan is threatening or menacing our possessions in the Orient. Some one else declares, or the newspapers announce, that Germany's intention to colonize in South America are assuming definite form. On the other hand, we hear of possible hostilities with Great Britain, and France comes in for her share of implied threat against the peace and welfare of this country. It is only when we are about to determine the number of battleships that we are to build, or whether we shall build any, that neighboring nations and those across the sea begin their menaces and mutterings of hostility toward us and our outlying possessions. One would think, Mr. President, that of all times this would be the occasion when, if such intentions exist, they would be concealed or suppressed, because, if it be true that this slumbering hostility between the nations exists, common prudence would dictate it be allowed to slumber and thus suppress an increased armament instead of making it inevitable by a disclosure of their real purposes.

These war scares, Mr. President, are merely a part of the general plan that lies at the foundation of our policy regarding battleship construction. They serve to promote the policy of providing for two battleships every year by appealing to our anxieties and apprehensions. These exposures of hostile designs and aggressive policies come in convenient and recurring seasons. They can be predicted as accurately as we can predict the changes of the moon.

I know, Mr. President, of no war cloud now in existence or of any that has appeared upon the American horizon since the close of the Spanish-American War. I have heard, we all have heard, of secret preparations that are said to be making across the Pacific, of alliances between Japan and Great Britain, of Germany's intentions, and of a possible concert of all Europe against America. We hear of them when the Naval Committee of the House begins its work upon the naval appropriation bill. They follow it through that House and accompany it to the Senate. Their potential influence is active until the bill becomes a law. They are then laid away, are carefully preserved from injury, and brought out again and again for public inspection whenever battleship construction becomes a topic of congressional action.

But, Mr. President, as I have stated, these hobgoblins have nothing about them that is substantial, except as they constitute an asset of the great shipbuilding concerns which are interested in securing the contracts for naval construction, out of which they accumulate, and hope to keep on accumulating, millions of dollars.

Some time ago a serious rupture occurred between France and Germany, each a great naval power, the naval strength of Germany being superior to that of France. It was known as the Morocco situation. The news accounts every day were freighted with information as to the respective merits of the controversy, as to the time when hostilities would probably commence, as to the certainty or the uncertainty of the outcome. Germany began warlike preparations, and France likewise. The peace of the world was seriously menaced; but did the great navies of either of those countries constitute an agency for the continuance of peace or the prevention of hostilities? Was Germany able to dictate onerous terms to France because she had more ships and more guns? Was France cowed into any sort of surrender or concession because her's was the inferior naval equipment?

Why, Mr. President, the very fact of the existence of these conditions was the surest indication of an open outbreak. Each was prepared for war and wanted it because they were prepared. The breach was closed, but by what agency? That which prevented a collision between those nations was not their navies; it was not their armies, although divided simply by a land and river frontier. Germany with her 600,000 soldiers, France with her more than half a million, confronted each other across a boundary line scarcely as wide as the length of this Capitol. Their armies are equipped and continued at enormous public expense, for the preservation of peace, it is said; and yet we know that the very fact that those armies exist constituted at that time, as they have before and have since, the principal menace—the direct menace, I may say—to the peace of Europe.

But while these nations were confronting each other in martial and naval array did anyone, even in the wildest moments of excitement, make any reference to the existence of these huge armaments as an agency of peace or as a preventive of war? Not at all. We know that Germany intended to strike, but was prevented by the protest of a large portion of her own people, Mr. President, who in that great crisis saved the peace of the world.

I hold no brief for the Socialists of this or any other country. I am neither wedded to their doctrines nor prejudiced against their sincerity of purpose; but justice requires the statement that the Socialist-Democrats of Germany, through their press and at their mass meetings, prevented the outbreak of hostilities between those two nations by serving notice upon the rulers of their own country that it should not occur. Not the navies nor the armies, nor both combined, but the determined spirit of a progressive people united by a common purpose stood between the nations and lifted high the white banner of peace. The men and the women of one of these nations, the bearers of its burdens and the fighters of its battles, served notice upon its rulers that no cause for war existed; that their blood should not be shed to gratify the ambitions of rulers or to display the prowess of modern armaments. Not the navies or the armies, not the treasuries, not statecraft or diplomacy, but the thunder tones of human protest voiced by millions of men, proclaiming human brotherhood and the useless sacrifice of blood and treasure, became the agency which preserved the equilibrium, tided over the crisis, and enjoined what would have been perhaps the bloodiest war of history.

Mr. President, there is another element which prevents modern nations from appealing to armed conflict with each other; I refer to the tremendous public debt of the great powers. The people of Great Britain, of Germany, of France, and of Japan are groaning under a burden of public obligations so colossal that the mind of man staggers in its attempted contemplation of their aggregate amount; and the interest annually wrung from the earnings of the people is of itself so stupendous in amount as to make the most reckless of rulers hesitate before plunging his nation into a course which inevitably increases the national obligations. I am no believer in huge national indebtednesses, but we must recognize they constitute an element which makes for the peace of the world.

Talk about Germany going to war with the United States unless we spend millions upon millions in the building of battleships to prevent it, or about Japan attempting to invade our Pacific shores, bent either upon conquest or upon revenge. Why, Mr. President, nations in these times can only conduct great wars at enormous expense, and most of them have reached the limit of the burden. All the navies in the world are powerless in the presence of these mighty conditions to seriously affect the continued amity of the great powers.

A distinguished gentleman said a few days ago that we must build a great Navy because "the Monroe doctrine has advanced across the Pacific, whether we would or whether we would not," and for the maintenance of the principles of that doctrine in the Orient we must continue to expand our naval armament until the desired number has been constructed, which, I think, is placed at 41 battleships of the line.

Mr. President, when the Monroe doctrine passes beyond the shores of America it ceases to be the Monroe doctrine. Call it what you will, it is no longer that. In his famous letter to Mr. Monroe Mr. Jefferson emphasized the corresponding obligation resting upon this Nation by virtue of its announcement of that doctrine; that we would keep our hands off the affairs of all other countries and confine our diplomacy, so far as regards that doctrine, to the Western Hemisphere. He who asserts that the Monroe doctrine is consistent with any foreign policy that carries it to the Old World either does not understand its nature or else, in his enthusiasm, he proposes to utilize it for purposes wholly inconsistent with the conditions which gave it birth.

Mr. President, I believe I am as patriotic as the average man; I believe I have as much concern for my country as any Member of this body; I believe I am actuated by as high impulses of duty as any of my colleagues. They are better informed as to many of the relations between this and other Governments, and also as to the extent to which our naval equipment should be carried, but they are in no respect better qualified to pass upon the fundamental proposition as to whether these great expenditures are essential to our peace, our welfare, or our dignity.

I believe that the modern spirit of commercialism is behind these great appropriations, and particularly those which relate to the Navy, and that it is these interests which constantly clamor for more and more vessels and constantly increase the amount of our appropriations for naval purposes, until they have swelled beyond those of any other nation in the world, England alone excepted.

Something was said here to-night about the cost of the construction of these vessels and the consequent desirability of having them constructed by private concerns. Economy, Mr. President, is a relative term. What one man considers to be economy another regards as something entirely different. What one man regards as extravagant another regards as economy. Some of us are willing to swell this appropriation beyond the $150,000,000 and insist that it is economy; some of us shy at the possibility of an increased cost of the construction of these structures by the Government itself as compared with the cost of their construction by private concerns.

Mr. President, I believe the Government should build all its vessels. I believe that if it will build all of its vessels and if its navy yards have not sufficient capacity, if it will increase that capacity to the end that it may construct its own naval equipment the craze for these many and continuing appropriations for other and newer vessels will die out, as it ought to. In other words, the moment the Government does its own construction, the pressure brought to bear upon us for the continued extravagances of naval architecture will be brought within reasonable and proper limits.

I do not believe, therefore, that where the Government can possibly do it, any of these vessels should be constructed by private parties.

The Senator from Arizona [Mr. ASHURST] called attention to the fact here to-night that the construction of armor plate is controlled by three huge concerns, and that these, by combination, have recently presented a bid to the Government for the armor plate required by the *Pennsylvania* for exactly the same figure and one which is $25 per ton in excess of the bids hitherto made. I do not believe the Senate is surprised at the fact. It is the natural consequence of this inordinate appetite for battleship construction which grows by what it feeds upon.

Mr. President, sometime ago—I think it was in 1894—Congress found it necessary to make an investigation as to the cost of armor plate and as to the profits made upon it by sales to the Government. That was a House committee in 1894.

It reported to the House of Representatives that the Carnegie Steel Co. was making armor plate at a cost of $20 a ton, and selling it to Russia at $249 a ton, but was supplying the United States with the same armor plate at from $520 to $700 a ton. Apart from the enormous profit disclosed by these figures, we perceive the common custom of modern times which gives the foreigner the benefit of lower prices as against the domestic consumer. There can be no question that as long as we permit the construction of these vessels by private parties those combinations will be encouraged which the Senator from Pennsylvania declared existed for the purpose of increasing instead of lowering prices, and peace must be assured to this country if they are to be credited through the multiplication of its millionaires and of its combines.

Mr. President, I have said all I care to say, in a somewhat rambling manner and without much previous preparation, upon what seems to me the most important feature of this bill. Let us accept the House bill as to one battleship and make arrangements for its completion, complete those that are now in the process of construction as soon as possible, consider the matter of tranport equipment, and obtain as soon as possible the officers and the men that are necessary properly to arm the vessels that we have and those which are now in the process of building.

There is just one other feature of the bill to which the amendment is offered that I want to speak of for a moment. It was pretty well illustrated by the amendment offered by the Senator from Connecticut that we should have three battleships instead of two, at an aggregate cost of somewhere in the neighborhood of $50,000,000. In other words, it proposed to swell the bill, large as it is, by adding to the number of battleships, in addition to the other increases that appear in the bill as reported from the Committee on Naval Affairs.

If our expenses can be increased—and they can be only by congressional action—the difficulties presented to the task of reducing taxation are magnified. In other words, if our expenses are upon a rising scale our attempted reduction of taxation becomes practically impossible unless we are prepared to face and encounter deficiencies. We can only carry out the Nation's will as expressed at the polls, reduce our tariff schedules by revising them downward, and otherwise relieve the people of the burden of taxation resting upon their shoulders by prosecuting a system of economy in public administration and expenditure. As a consequence, those of us on this side of

the Chamber who after next Tuesday will represent the national administration should see to it that in all these appropriations the limit of aggregate amounts should be made as small as possible, lest otherwise our financial legislation shall prove abortive and our entire system of financial reform discredited.

I do not charge—at least, I do not intend to charge—that the suggestion of three battleships had any such purpose in view. I merely say that the general tendency I have observed here to constant increases in the amounts of appropriations must necessarily make more difficult the task of reducing taxation. The scarcest thing in Washington is a reduction here of the amount of appropriations reported by the House of Representatives to us. The scale is always upward; amounts increase and multiply as we consider and reconstruct and ultimately enact or pass these measures.

Because there is no need of this outlay, because it is an increased expenditure which makes our task of reduction of taxation more difficult, we should confine ourselves to the one battleship, and serve notice that hereafter these expenditures and appropriations shall not go above a certain limit under any except the most extraordinary and exigent circumstances.

I therefore hope the amendment which I have offered will be agreed to.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from Colorado [Mr. THOMAS].

Mr. THOMAS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Colorado suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	Martin, Va.	Root
Bankhead	Fletcher	Martine, N. J.	Sheppard
Brady	Foster	Myers	Shively
Brandegee	Gallinger	Nelson	Simmons
Bristow	Gamble	Newlands	Smith, Ga.
Bryan	Gore	O'Gorman	Smith, Md.
Burnham	Jackson	Oliver	Smith, S. C.
Burton	Johnson, Me.	Owen	Smoot
Chamberlain	Johnston, Ala.	Page	Stone
Chilton	Jones	Penrose	Swanson
Clapp	Kavanaugh	Percy	Thomas
Clark, Wyo.	Kenyon	Perkins	Thornton
Clarke, Ark.	Kern	Pittman	Townsend
Crawford	Lea	Poindexter	
Cummins	Lodge	Pomerene	

The PRESIDENT pro tempore. Fifty-eight Senators have answered to their names. A quorum of the Senate is present. The question is upon the amendment submitted by the Senator from Colorado.

The amendment was rejected.

The PRESIDENT pro tempore. The question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. LODGE. Mr. President, in order to expedite business, I move that the Senate request a conference with the House on the amendments of the Senate to the bill just passed, and that the Chair appoint the conferees.

The motion was agreed to; and the President pro tempore appointed Mr. PERKINS, Mr. PENROSE, and Mr. TILLMAN conferees on the part of the Senate.

RIVER AND HARBOR BILL.

Mr. NELSON. I move that the Senate proceed to the consideration of the conference report on the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. SMITH of Georgia. I move that the Senate adjourn.

Mr. MARTINE of New Jersey. If the Senator will withhold his motion for a moment, I desire to present a bibliography of the eight-hour day, and I ask that it be printed as a public document.

Mr. SMOOT. What is the paper?

Mr. MARTINE of New Jersey. Merely a bibliography of the eight-hour day.

The PRESIDENT pro tempore. If there be no objection, it will be so ordered.

The Senator from Minnesota moves that the Senate proceed to the consideration of the conference report on the river and harbor bill.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to; and (at 11 o'clock and 55 minutes p. m.) the Senate adjourned until to-morrow, Saturday, March 1, 1913, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February 28, 1913.*

The House met at 10.30 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee our Father in heaven that though the Members of this legislative body come from widely different sections, representing widely different interests and political views, that respect and courtesy each for the other prevail in a large degree, that friendships are formed which lift them above party affiliations, sectional differences, commercial interests. Grant that these manly qualities may prevail in each successive Congress. That the spirit of brotherly love, patriotism, and statesmanship may ever be in the ascendency and thus reflect credit upon a representative Government, and we will ascribe all praise to Thee our God and our Father. Amen.

The Journal of the proceedings of yesterday was read and approved.

ELECTION OF SENATORS BY THE PEOPLE.

The SPEAKER announced that he had received a communication from the secretary of state of Nevada, certifying a copy of the assembly joint and concurrent resolution ratifying the amendment of section 3 of Article I of the Constitution of the United States of America, providing that Senators shall be elected by the people of the several States.

LEAVE TO PRINT.

Mr. HUMPHREYS of Mississippi. Mr. Speaker, on day before yesterday, at the request of my colleague, Mr. COLLIER, unanimous consent was given for printing as a document a report of Maj. J. E. Normoyle, of the Quartermaster's Department, relating to the flood conditions in Mississippi last year. Subsequently it was ascertained that there were some illustrations that ought to be printed, and there was some doubt as to whether the original order would authorize the printing of those illustrations. I ask unanimous consent, therefore, that the original order be so modified as to authorize the printing of the report with the illustrations.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to modify the order relating to the printing of the report of Maj. Normoyle so that the report may be printed with the illustrations. Is there objection?

There was no objection.

INCREASE OF THE NAVY.

Mr. SHERWOOD. Mr. Speaker, I ask unanimous consent to print in the RECORD a valuable letter from Mayor Brand Whitlock, of Toledo, on the now rampant military spirit, and especially in commendation of the patriotic course of President Taft touching the revolution in Mexico. Brand Whitlock is known as a scholar and author and a profound student of sociology.

The SPEAKER. The gentleman from Ohio asks unanimous consent to print in the RECORD a letter from Brand Whitlock on the subject of the Mexican imbroglio; is there objection?

There was no objection.

The letter is as follows:

EXECUTIVE OFFICES,
The City of Toledo, February 26, 1913.

Gen. ISAAC R. SHERWOOD,
House of Representatives, Washington, D. C.

DEAR GEN. SHERWOOD: I have your note asking me if I could help you with a letter against wasting $32,000,000 on two more useless battleships. I am not sure that anything I can say on that subject will be of any use in stopping the construction of battleships. If it would, I should say a good deal, for of course it is all but a part of the vast and amazing superstition of war. They say that we must have battleships to protect us. To protect us from whom? No other nation is going to invade ours that I know of, and if they do the military tactics required to make the invasion a failure are very simple; all we have to do is to march west in good order, and about the time the invading force gets out to Kokomo, Ind., and its commanding general is informed that we can keep marching on indefinitely in that direction for about five times that distance before we march into the Pacific Ocean, I am sure he would be so discouraged that he would either turn around and go home or else become naturalized as a citizen and in a few years run for governor or United States Senator. Of course, if we had any ships of commerce on the sea, we might need some battleships to protect them; but we haven't any; and if our friends, the protectionists, continue to be as influential in the country as they have been in my lifetime we are not likely to have any. Protection drove our commerce and our flag from the seas, and if its beneficiaries want more battleships to look at let them build them with some of the money they made out of that policy.

I have spoken of war as a superstition, and I think it is just that. When I was in Europe last fall I saw those ugly gray battleships at target practice everywhere, and everywhere people were talking about going to war. A sailor on the boat deck of the *Lusitania* told me one afternoon that he was very anxious for England to go to war with Germany. When I asked him what Germany or the Germans had ever done to him, he could not tell for the life of him. And in Berlin a sergeant in the reserves told me he was anxious to get to war with England,